TITLE 20

MISCELLANEOUS

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CHAPTER 1

AIR POLLUTION REGULATIONS

SECTION
20-101. Air pollution to be governed by the air pollution control ordinance(s).

20-101. Air pollution to be governed by the air pollution control ordinance(s). Air pollution within the City of Red Bank shall be governed by The Air Pollution Control ordinance(s) incorporated herein by reference.

Air pollution and air quality within the City of Red Bank shall be governed by the various Red Bank ordinances adopted by the City of Red Bank in relation thereto including ordinance no. 551, any amendments, reenactment or recodification thereof including but not limited to Ordinance Nos. 95-700, 95-701, 95-702, 96-710, 99-780, 00-812, 00-813, and 04-898.

All referenced ordinances, and amendment thereto, are of record in the office of the city recorder and shall not be physically contained within this codification, but are, rather, incorporated by reference. (as replaced by Ord. #99-780, March 1999; and amended by Ord. #00-812, June 2000; Ord. #00-813, June 2000; and Ord. #04-898, Dec. 2004)
CHAPTER 2

RED BANK CEMETERY

SECTION
20-201. Cemetery commission to manage.
20-203. Burial fees.
20-204. Grave markers.
20-205. Maintenance of cemetery.

20-201. **Cemetery commission to manage.** The management and operation of the Red Bank Cemetery, which has heretofore been conveyed to the city by certain trustees, shall be under the control of a cemetery commission composed of three (3) members nominated by the mayor and confirmed by the commissioners of the city. (1975 Code, § 12-301)

20-202. **Organization and procedure of the commission.** The cemetery commission shall select one of its members as chairman and another as secretary. It shall adopt its own rules and regulations for its procedure. The secretary shall maintain the minutes of the commission's meetings and a copy of the minutes shall be delivered to and maintained by the city recorder. (1975 Code, § 12-302)

20-203. **Burial fees.** The cemetery commission shall be required to collect the sum of $100.00 from the next of kin, or from some person, before any grave shall be opened in the cemetery, provided however, that the cemetery commission may waive this fee in hardship cases. (1975 Code, § 12-303)

20-204. **Grave markers.** The cemetery commission shall also require of each person requesting the right of burial a deposit of $15.00 to cover the cost of a marker. This amount will be refunded to the person paying same upon the erection of a marker at the grave within sixty (60) days following burial, or upon furnishing satisfactory proof to the cemetery commission that such marker is on order. In the event a marker is not erected within that period of time or satisfactory proof as hereinabove set forth furnished, the deposit shall be forfeited and the cemetery commission shall forthwith obtain and place a marker at the grave. (1975 Code, § 12-304)

20-205. **Maintenance of cemetery.** The cemetery commission shall keep the city manager advised as to the maintenance needs of the cemetery, and the city manager shall, within the means available to him, and within the budgetary allotment for the maintenance of the cemetery, perform the work requested. The scheduling of the maintenance work upon the cemetery shall be
within the discretion of the city manager, provided, however, that the cemetery commission may, upon any special occasion give the city manager notice two weeks in advance or such occasion of any maintenance needs of the cemetery grounds, excluding monuments. The maintenance needs thus specified shall be corrected within the said two weeks either with city forces, or by special labor hired for this purpose. (1975 Code, § 12-305)
CHAPTER 3

TELEPHONE FRANCHISE

SECTION

20-301. Furnished under franchise.

20-301. Furnished under franchise. Telephone service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.¹ The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

¹The agreements are of record in the office of the city recorder.
CHAPTER 4

COUNCIL FOR CIVIL DEFENSE

SECTION

20-401. Creation, membership and compensation. Pursuant to and in accordance with the provisions of Pub. Acts of 1951, ch. 81, there is hereby created and established within the department of public safety a council for civil defense. The council shall consist of five (5) members, all of whom shall be at least twenty-one (21) years of age, citizens of the United States and residents of the City of Red Bank, and all of whom shall be appointed by the mayor of the city and serve during his pleasure, but without compensation. (1975 Code, § 1-801)

20-402. Appointment of chairman and director. The mayor shall appoint one of the members of the council for civil defense to serve as chairman of the council and also director of civil defense as contemplated by Pub. Acts 1951, ch. 81. (1975 Code, § 1-802)

20-403. To act as an advisory body. Acting as a body, the council for civil defense shall act entirely as an advisory body of the director for civil defense and to the city government and may express its advice or opinions informally or by formal resolutions. (1975 Code, § 1-803)

20-404. Committees and deputies. The director of civil defense shall have the power to appoint committees and deputies and delegate to them powers conferred upon him by this chapter. They shall assist him in the planning and administration of civil defense measures under this chapter. (1975 Code, § 1-804)
20-405. **General powers and duties of the director.** The director for civil defense shall have the power and it shall be his duty to enforce all lawful directives and orders of the civil defense agency of the State of Tennessee and of the government of the United States; to discharge such duties and do such things as are required of him by the board of commissioners of the City of Red Bank or the city manager of the city; to initiate and carry on studies and investigations personally or through deputies and committees necessary to determine the present resources of the city for civil defense and to determine what measures should be taken for the protection of persons and property within the city from the effects of possible enemy action, and for the rescue and care of such persons as may be injured thereby in person or in property and for the rehabilitation and protection of the city from the effects of such enemy action; to make recommendations to the board of commissioners of the City of Red Bank, to the civil defense agency of the state and to the federal civil defense authorities respecting measures and courses of action deemed by him to be necessary or desirable to effectuate the successful carrying out of his duties, and the purposes of this chapter. (1975 Code, § 1-805)

20-406. **Miscellaneous duties enumerated.** Until countermanded by lawful authority, it shall be the duty of the director for civil defense within the resources available:

1. To recruit, train, organize and arm a voluntary police force to supplement the regular police force of this city in the event of an emergency. Such voluntary force shall not be used for ordinary police duty, except by consent of the mayor, and then only to guard against reasonably feared or threatened enemy action. The force shall be under the direct control of the director for civil defense, subject to the mayor's pleasure, but may at the pleasure of the mayor, be placed under the control of the director of public safety of the city.

2. To recruit, train and organize a voluntary firemen's force to supplement the regular fire-fighting forces of this city. Such volunteer force shall not be used for ordinary fire protection duty, but may, with the consent of the mayor, be called upon to serve during an unexpected emergency. The force shall be under the direct control of the director for civil defense, but may, at the pleasure of the mayor, be placed under the control of the director of safety of the City of Red Bank.

3. To provide a warning system for the city, designed to give prompt warning to the citizens of impending enemy attack, and to provide a general headquarters and control station to house the necessary staff and records of the organization.

4. To institute and carry on a program to provide, as far as possible, reasonable shelters for protection of the population in event of enemy attack, and particularly, to institute a program of education among the industrial plants to provide reasonable shelter for their employees, and to carry on an
educational program among them relating to safety measures in event of an emergency.

(5) To take prompt measures in conjunction with the board of education for the protection and safety of the school children and personnel of the city schools and to assist the school authorities in an educational program for school protection.

(6) To institute a survey of the city for the purpose of locating and establishing existing shelters from enemy attack, and to mark such shelters and do such things as may be necessary to make such shelters available for use in an emergency.

(7) To organize and train a rescue force for rescuing persons from debris and like dangerous situations, and for clearing streets and roads, to facilitate the transportation of persons and materials.

(8) To organize and correlate the medical and hospital personnel and facilities of the city, and to train persons in first aid and nursing.

(9) To take measures in conjunction with the city and county health authorities to guard against the pollution of the city's water supply and against bacteriological and radiological attack.

(10) To cooperate with the safety department in guarding against sabotage in industries and against public works and facilities.

(11) To organize the available transportation facilities so as to make them as usable as possible in the event of an emergency.

(12) To organize the several communications systems of the city so as to preserve, as far as possible, adequate means of communication in the event of a disaster, and to this end, to establish a personal messenger system which can be used in event of disruption of other means.

(13) To procure necessary radiological instruments, medical supplies, arms and other materials which may be needed in the event of an atomic attack or other enemy attack.

(14) To cause a survey to be made of the city and its environs, and list the available housing facilities for use in event of disaster to the city or its neighbors.

(15) To accept on behalf of the city, with the approval of the mayor, equipment, material, facilities and funds donated from any source, and to use the same in furtherance of the purposes of this chapter.

(16) With the approval of the city manager, to contract for the services, materials and property necessary properly to carry out the purposes of this chapter but all commitments and expenditures shall, except in the event of an actual emergency declared by the governor of this state, or the mayor of this city, be limited to funds on hand or appropriated from the treasury.

(17) To organize and train air wardens to cooperate with the federal and state armed forces, if the necessity shall arise.

(18) To organize and train for the city a force of wardens whose duties it shall be to carry to the inhabitants of their districts instructions concerning
protective measures, proper methods to pursue to prevent and check fires, information respecting available shelters, and generally to act as leaders in their districts in the event of disaster until superseded by order or the arrival of higher authority.

(19) To coordinate the several services and facilities under his control with a view to efficiency and economy in operation. (1975 Code, § 1-806)

20-407. Agreements for mutual aid and assistance. The director for civil defense shall have the power to negotiate and enter into, subject to the ratification of the board of commissioners of the city, agreements with other political subdivisions of the state to provide for mutual aid and assistance in the event of an emergency, and to make like agreements with neighboring communities of other states with the approval of the board of commissioners of the city and the governor of the state. (1975 Code, § 1-807)

20-408. Use of regular employees of the city. The mayor shall have the power to place under the control of the director of civil defense, the regular employees of the city when and to the extent, in his sound judgment, the public interest requires. Such employees when transferred and whether serving within or without the city, shall have the powers, duties, rights, privileges and immunities and shall receive the compensation incidentals to their regular employment. (1975 Code, § 1-808)

20-409. Director to act for city. The director for civil defense shall have the power to act for the city, and to do all things necessary to carry out the orders and directions of the governor of the state, respecting the exercise of the powers placed in the hands of the governor under Pub. Acts 1951, ch. 81, and particularly under §§ 20-407, 20-408, 20-409, 20-410, and 20-411 hereof, and amendments thereto. (1975 Code, § 1-809)

20-410. Director to cooperate with other agencies. The director for civil defense shall, to the extent of the resources at his command, cooperate with and lend all assistance to and correlate his activities with the civil defense authorities of the state and of the federal government, and the civil defense programs and actions of the state and of the United States. (1975 Code, § 1-810)

20-411. Workers to take oath. No person, whether compensated for his services or not, shall enter into service or do anything under this chapter without complying with the requirements of Pub. Acts 1951, ch. 81, § 12. (1975 Code, § 1-811)

20-412. Compensation of workers. Unless specifically provided for (except regular employees transferred under § 20-408 above), no person shall receive any compensation for service as under this chapter, but the director of
civil defense shall have the power to reimburse any person serving under him for actual expenses properly incurred in carrying out the duties required of him by the director for civil defense. (1975 Code, § 1-812)
CHAPTER 5

CIVIL EMERGENCY POWERS OF CITY MANAGER

SECTION
20-501. Power to proclaim an emergency.
20-502. Powers of manager during such period.
20-503. Effect of proclamation.
20-504. Violations.

20-501. Power to proclaim an emergency. In the event of an emergency in this city, arising out of, brought about by, or resulting in, civil commotion, civil disturbances, riots, or other similar actions, in this city or in areas adjacent thereto, and in such close proximity as to render it likely that such disturbances or activities may spread to this city, the city manager shall have the power, under this chapter, to proclaim a state of emergency, and to exercise the powers invested in him hereby. (1975 Code, § 1-1001)

20-502. Powers of manager during such period. Upon the proclaiming of such emergency, the city manager may:

(1) Direct that all businesses engaged in the sale of alcoholic beverages shall cease the sale of such beverages during such hours as he may direct in such proclamation, or until the state of the emergency ceases to exist, in his discretion.

(2) Direct that all businesses engaged in the sale of gasoline, fuel oil, or other materials which may be used for explosive or incendiary purposes be closed during such hours as he may direct by the proclamation, or until the state of emergency ceases to exist, in his discretion.

(3) Direct that all business, commercial, and industrial establishments in the city be closed for such hours as may be specified in the proclamation, or pending the termination of the emergency, at his discretion.

(4) Impose a curfew prohibiting all persons from being abroad upon the streets and public ways of the city, except upon emergency matters, during certain hours established by the proclamation, or until the termination of the emergency, in his discretion.

(5) Direct that assemblages of more than four (4) persons be banned during such hours as may be established by the proclamation, or until the termination of the emergency, in his discretion. (1975 Code, § 1-1002)

20-503. Effect of proclamation. This proclamation, upon its issuance by the city manager, shall invoke the provisions of this chapter and make them applicable to the extent set forth in the proclamation. (1975 Code, § 1-1003)
20-504. Violations. Any violation of the provisions of a proclamation issued pursuant hereto shall be punishable under the general penalty clause for this code of ordinances. (1975 Code, § 1-1004)
CHAPTER 6

IMPOUNDED OR UNCLAIMED PERSONAL PROPERTY –
DISPOSITION

SECTION
20-601. Property covered by chapter.
20-602. Sale at auction.
20-603. Disposition of sale proceeds generally.
20-604. Owner's rights to proceeds of sale.
20-605. Unsalable property.

20-601. Property covered by chapter. All personal property impounded by the city under the provisions of any ordinance or law, and all unclaimed personal property coming into the possession of the police department, the city court, or any other department of the city, shall, if it remains unclaimed for a period of sixty (60) days thereafter, be and become the property of the City of Red Bank and shall be disposed of by the city manager in such manner and on such terms as he deems necessary and reasonable. Such property shall be inventoried and labeled, and a record thereof maintained by the city manager. The sixty (60) day period described shall commence at the time that the property comes into the possession of the city. The city manager shall make every effort to give actual notice to the owner of said property before disposing of the same. (1975 Code, § 1-1101)

20-602. Sale at auction. When deemed appropriate by the city manager, he shall hold a public sale of all unclaimed personal property delivered to him. Notice of sale, giving the time and place, shall be by public notice posted in at least three (3) public places in the county, one of which shall be at the city hall, and one of which shall be at the location of the property to be sold. Said notices shall be posted at least ten (10) days prior to the time of said sale, and the sale shall be made at public auction to the highest bidder for cash, and shall be conducted by the city manager, or some person designated by him. (1975 Code, § 1-1102)

20-603. Disposition of sale proceeds generally. Monies received from the sale of unclaimed personal property, as provided herein, shall be paid into the city treasury to be used for general municipal purposes, subject to the provisions hereof. (1975 Code, § 1-1103)

20-604. Owner's rights to proceeds of sale. In the event the owner of any article of personal property sold shall, within a period of sixty (60) days after the sale, present satisfactory proof to the city that he was the owner of any article sold, he shall be entitled to the proceeds of the sale thereof, less all costs,
expenses, and charges incurred or accrued in connection with the impoundment and sale of said property. (1975 Code, § 1-1104)

20-605. **Unsalable property.** Should said personal property coming into the city's possession by impoundment, or otherwise, be unsalable for any reason, the city manager is authorized to dispose of the same in such manner as he may deem best. (1975 Code, § 1-1105)
CHAPTER 7

EMERGENCY AMBULANCE SERVICE

SECTION
20-701. Title.  This chapter shall be known as The Red Bank Emergency Ambulance Ordinance.  (1975 Code, § 7-401)

20-702. Creation and purpose.  There is hereby created, within the Red Bank Volunteer Fire Department, a division to be known as The Red Bank Emergency Ambulance Service, the object of which shall be the furnishing, to persons in need thereof, of emergency ambulance service.  (1975 Code, § 7-402)

20-703. Officers and personnel.  The officers and all other personnel of the ambulance service shall, in all respects, be members of the Red Bank fire department, and shall be subject to the same rules, regulations, discipline, and chain of command, as all other officers and personnel of said fire department.  (1975 Code, § 7-403)

20-704. Applicability of provisions of title 7, chapter 3.  All of the provisions of title 7, ch. 3 dealing with the Red Bank Fire Department, shall be equally applicable to the personnel and operations of the ambulance service, except where such applicability would be inappropriate.  (1975 Code, § 7-404)

20-705. Charges for ambulance service; method of determination; availability.  The charge for ambulance service for Basic Life Service Runs shall be $125.00 per transport per patient, plus $2.00 per mile and a $20.00 oxygen charge when such is used.  Provided, however, that Advanced Life Service Runs, when a paramedic is on the run for administration or possible administration of IV therapy, defibrillation, or use of disposable supplies and other extraordinary services of a like kind which may necessarily be provided shall be charged at the rate of $200.00 per transport per patient, plus $2.00 per mile and a $20.00 oxygen charge when such is used.  For the purpose of this

1Municipal code reference

Fire department: title 7, chapter 3.
section, a secondary transport to a second hospital shall be deemed a separate trip and shall accordingly be subject to a second, separate charge therefor. (1975 Code, § 7-405)

20-706. **Restricted to emergency service—determination.** Because of the fact that this city has only one ambulance, and the use of said ambulance as a transportation service in non-emergency situations could result in the ambulance being unavailable for service in a true life-threatening emergency, the utilization of this ambulance shall be restricted to emergencies. The authority to determine whether or not a particular set of circumstances constitutes such an emergency shall rest with a senior officer on the ambulance crew at the time it is dispatched. (1975 Code, § 7-406)
CHAPTER 8

POWER TO ISSUE CITATIONS

SECTION
20-801. Power to issue citations.

20-801. Power to issue citations. Pursuant to the provisions of Tennessee Code Annotated, §§ 7-63-201--7-63-204, the codes enforcement officer and/or, as is applicable, the animal control officer shall have the power and right, in the performance, and within the parameters of the respective duties assigned to them by the city manager and/or as provided by charter, ordinance or statute, to issue ordinances summonses as citations in lieu of arrest to the city court for violations of general law, statute, charter or ordinance as each may be responsible for enforcement. (as added by Ord. #97-752, § 1, Oct. 1997)
CHAPTER 9

PERSONALLY IDENTIFYING EMPLOYEE INFORMATION

SECTION
20-901. Policy.
20-902. Personally identifying information.
20-903. Request to release information in writing.

20-901. Policy. As a matter of policy, the City of Red Bank will not disclose personally identifying information about specific employees or applicants, if the employee invokes his/her right to privacy, personal security and bodily integrity. If the employee does not invoke his/her right to privacy, personal security and bodily integrity, the information will be released to the requestor. (as added by Ord. #99-787, July 1999)

20-902. Personally identifying information. Personally identifying information includes addresses, phone numbers, drivers' licenses, social security numbers, and any other information reasonably deemed to fit into the category of personnel identifying information. It also includes, but is not limited to the names, addresses, phone numbers, driver's licenses, and social security numbers of family members, if such information is in the city's personnel files. (as added by Ord. #99-787, July 1999)

20-903. Request to release information in writing. If permitted by subsequent statutory enactment by the State of Tennessee by court ruling, the city will not release any personally identifying information with respect to its employees or fire or police personnel unless requested to do so in writing by the affected Red Bank employee. (as added by Ord. #99-787, July 1999)


(1) All requests to review a file or information from a file must be handled by the personnel administrator. In his/her absence, requests will be referred to the city manager.

(2) The person(s) requesting the information must complete a form (copy attached)\(^1\) specifying what information is being requested and the reason for the request. The request shall be as specific as possible.

\(^1\)This form is on record in the office of the recorder.
(3) The personnel administrator will offer the requestor a work history on the employee and may also provide copies of individual items from the file with the personally identifying information deleted or blacked out.

(4) Requests for unedited copies of an employee's file or any personally identifying information will result in notification to the employee whose information has been requested. The personnel administrator will notify the employee within 48 hours that the request has been made to disclose personally identifying information. The employee then will have 48 hours after actual notice to object to the information to be disclosed.

(5) If the employee makes no objection to full disclosure, the personnel administrator will allow the unedited file or personally identifying information to be disclosed.

(6) If the employee objects to the disclosure, or if permitted by statute or case law, the information will not be disclosed. If the requestor objects, he will be referred to the city attorney for appropriate resolution.

(7) The personnel administrator or city manager are the only officials authorized to verify employment upon request. These officials may not release or verify an employee's social security number, address, driver's license, or other personally identifying information, unless compelled to do so by a final order of a court of competent jurisdiction.

(8) Any requests for this information must be made in writing. The administrative staff is authorized to fax the appropriate form to the requestor; however, all aspects of request(s) for police officers' personally identifying information must be handled by the personnel administrator or city manager, in person and no such information may be mailed. The requestor must personally come to city hall to view the documents or to obtain copies. The city manager and/or staff shall charge an appropriate administrative fee, to be set by the city manager, to defray the cost of the review and/or copying and the compliance with these procedures. (as added by Ord. #99-787, July 1999)
CHAPTER 10
CITY MANAGER; MISCELLANEOUS POWERS AND RESTRICTIONS

SECTION
20-1001. Authority to enter, sign, and execute contracts.

20-1001. Authority to enter, sign, and execute contracts. (1) The city manager is hereby authorized to enter, sign and execute building contracts for and on behalf of the city, without specific board approval, in routine matters and matters having insubstantial long term consequences. As used in this chapter "routine matters and matters have insubstantial long term consequences" means a contract or series of contracts of a like nature with respect to essentially the same subject matter for which:

   (a) The total expenditures in any fiscal year shall be less than $10,000.00,
   (b) In which the total expenditure over the life of the contract shall be less than $20,000, and
   (c) The term of which contract shall not extend or span more than any two fiscal years.

(2) That the city manager is hereby authorized to enter, sign and execute any binding contract for and on behalf of the city, with the specific approval of the city commission, when specifically authorized to do so by the city commission, acting by ordinance and/or resolution. (as added by Ord. #00-831, Oct. 2000, and amended by Ord. #08-944, Dec. 2008)
CHAPTER 11

ADMINISTRATIVE HEARING OFFICER

SECTION
20-1101. Municipal administrative hearing officer.
20-1102. Communication by administrative hearing officer.
20-1103. Appearance by parties and/or counsel.
20-1104. Pre-hearing conference and orders.
20-1105. Appointment of administrative hearing officer/administrative law judge.
20-1106. Training and continuing education.
20-1107. Citations for violations - written notice.
20-1109. Party in default.
20-1110. Petitions for intervention.
20-1111. Regulating course of proceedings - hearing open to public.
20-1112. Evidence and affidavits.
20-1113. Rendering of final order.
20-1114. Final order effective date.
20-1117. Appeal to court of appeals.

20-1101. Municipal administrative hearing officer. (1) In accordance with title 6, chapter 54, section 1001, et seq., of the Tennessee Code Annotated, there is hereby created the Red Bank Municipal Office of Administrative Hearing Officer to hear violations of any of the provisions codified in the Red Bank Municipal Code relating to building and property maintenance including:
   (a) Building codes now or hereafter adopted by the City of Red Bank;
   (b) All residential codes now or hereafter adopted by the City of Red Bank;
   (c) All plumbing codes now or hereafter adopted by the City of Red Bank;
   (d) All electrical codes now or hereafter adopted by the City of Red Bank;
   (e) All gas codes now or hereafter adopted by the City of Red Bank;

1Municipal code reference
   Building and utility codes: title 12
(f) All mechanical codes now or hereafter adopted by the City of Red Bank;
(g) All energy codes now or hereafter adopted by the City of Red Bank;
(h) All property maintenance codes now or hereafter adopted by the City of Red Bank;
(i) All codes or regulations governing mobile food service vehicles now or hereafter adopted by the City of Red Bank; and
(j) All municipal zoning ordinances and codes;
(k) Ordinances regulating any subject matter commonly found in the codes mentioned in subsections (1)(a)-(k) hereof.

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) which are more stringent than and which have stricter standards and requirements than the then applicable city code requirement.

The utilization of the administrative hearing officer shall be at the discretion of the city manager and/or the city manager's designee, the chief building official of the City of Red Bank, and shall be an alternative to any other procedures for enforcement included in the Red Bank Municipal Code.

(2) There is hereby created one (1) administrative hearing officer position to be appointed by the city commission pursuant to § 20-1105 below.

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

(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 title 6, chapter 54, section 1001, et seq., of the Tennessee Code Annotated. (as added by Ord. #15-1042, Oct. 2015, and amended by Ord. #18-1125, June 2018)

20-1102. 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. #15-1042, Oct. 2015)

20-1103. 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. #15-1042, Oct. 2015)

20-1104. Pre-hearing conference and orders. (1) 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 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. #15-1042, Oct. 2015)

20-1105. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by the city commission for a four (4) year term and serve at the pleasure of the city commission. Such administrative hearing officer may be reappointed.

(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 requirements of subsections 6-54-1007(a) and (b). (as added by Ord. #15-1042, Oct. 2015)

20-1106. 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, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training shall be developed by MTAS with input from the administrative procedures division, office of the Tennessee Secretary of
State. MTAS shall offer this program of training no less than twice per calendar year.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS shall develop the continuing education curricula and offer that curricula for credit no less than twice per 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 individuals licensed under this part. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.

(3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The city shall bear the cost of the fees for administrative hearing officer serving the city.

(4) Costs pursuant to this section shall be offset by fees enacted. (as added by Ord. #15-1042, Oct. 2015)

20-1107. 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. #15-1042, Oct. 2015)

20-1108. Review of citation - levy of fines. (1) Upon receipt of a citation issued pursuant to § 20-1107, an 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 this part, "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 this part, "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) nor 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. #15-1042, Oct. 2015)

20-1109. 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. #15-1042, Oct. 2015)

20-1110. 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. #15-1042, Oct. 2015)

20-1111. 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 crossexamination, 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 title 8, chapter 44 of the Tennessee Code Annotated, 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. #15-1042, Oct. 2015)

20-1112. Evidence and affidavits. (1) In administrative hearings:

(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 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 crossexamination 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 subdivision (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 (b) 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. #15-1042, Oct. 2015)

20-1113. Rendering of final order. (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 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. #15-1042, Oct. 2015)

20-1114. **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. #15-1042, Oct. 2015)

20-1115. **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. #15-1042, Oct. 2015)

20-1116. **Judicial review of final order.** (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, 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 substantiability 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. #15-1042, Oct. 2015)

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20-1117. 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. #15-1042, Oct. 2015)