

**THE  
TUSCULUM  
MUNICIPAL  
CODE**

**Prepared by the**



**Municipal Technical Advisory Service**

*In cooperation with the Tennessee Municipal League*

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*Change 2*  
*July 27, 2020*

**CITY OF TUSCULUM, TENNESSEE**

**MAYOR**

Alan Corley

**VICE MAYOR**

Barbara Britton

**COMMISSIONER**

Mike Burns

**CITY RECORDER**

John Lamb

**CITY ATTORNEY**

Alex R. Chesnut

## Preface

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of the codes team: Kelley Myers, Linda Winstead, Nancy Gibson and Sandy Selvage, is gratefully acknowledged.

Codification Consultant

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

1. General power to enact ordinances: (6-19-101)
2. All ordinances shall begin, "Be it ordained by the City of Tusculum as follows:" (6-20-214)
3. Ordinance procedure

(a) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.

(b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.

(c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.

(d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. (6-20-215)

4. Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city.

No such ordinance shall take effect until the ordinance, or its caption, is published except as otherwise provided in chapter 54 part 5 of this title. (6-20-218)

*Change 2  
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**TITLE 1**

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

**CHAPTER**

1. BOARD OF COMMISSIONERS.
2. RECORDER.
3. CITY MANAGER.
4. ETHICS POLICY.

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<sup>1</sup>Charter reference

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

Municipal code references

Building, plumbing, and electrical inspectors: title 12.

Fire department: title 7.

Utilities: title 18.

Water and sewers: title 18.

Zoning: title 14.

## CHAPTER 1

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

#### SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Ordinance adoption procedures.
- 1-105. Term of office.

**1-101. Time and place of regular meetings.** The board of commissioners shall hold regular monthly meetings at 7:00 P.M. on the third Monday of each month at the city hall. (1995 Code, § 1-101)

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

- (1) Call to order by the mayor.
- (2) Invocation.
- (3) Roll call by the recorder.
- (4) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (5) Comments and grievances from citizens.

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#### <sup>1</sup>Charter reference

For detailed provisions of the charter related to the election, and to general and specific powers and duties of, the board of commissioners, see Tennessee Code Annotated, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

- Appointment and removal of city judge: § 6-21-501.
- Appointment and removal of city manager: § 6-21-101.
- Compensation of city attorney: § 6-21-202.
- Creation and combination of departments: § 6-21-302.
- Subordinate officers and employees: § 6-21-102.
- Taxation
  - Power to levy taxes: § 6-22-108.
  - Change tax due dates: § 6-22-113.
  - Power to sue to collect taxes: § 6-22-115.
- Removal of mayor and commissioners: § 6-20-220.

- (6) Communications from the mayor.
- (7) Reports from committees, members of the board of commissioners, and other officers.
- (8) Old business.
- (9) New business.
- (10) Adjournment. (1995 Code, § 1-102, modified)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1995 Code, § 1-103)

**1-104. Ordinance adoption procedures.** Under the authority of Tennessee Code Annotated, § 6-20-215, only the caption of ordinances are required to be read each time an ordinance is considered. (1995 Code, § 1-104)

**1-105. Term of office.** The commissioners shall be elected in the November general elections and every four (4) years thereafter shall be elected for a four (4) year term of office. (Ord. #13-01, Jan. 2013)

## CHAPTER 2

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

#### SECTION

1-201. To keep minutes, etc.

1-202. To perform general administrative duties, etc.

1-203. To be bonded.

**1-201. To keep minutes, etc.** The recorder shall keep the minutes of all meetings of the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (1995 Code, § 1-201)

**1-202. To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the board of commissioners for the city which are not assigned by the charter, this code, or the board of commissioners to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1995 Code, § 1-202)

**1-203. To be bonded.** Pursuant to Tennessee Code Annotated, § 6-21-104 the recorder shall, before entering upon his duties, execute a fidelity bond in the amount of five thousand dollars (\$5,000.00), with a surety company authorized to do business in the State of Tennessee as surety. (1995 Code, § 1-203)

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<sup>1</sup>Charter references

For charter provisions outlining the duties and powers of the recorder, see Tennessee Code Annotated, title 6, chapter 21, part 4, and title 6, chapter 22. Where the recorder also serves as the treasurer, see Tennessee Code Annotated, title 6, chapter 22, particularly § 6-22-119.

## CHAPTER 3

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

#### SECTION

- 1-301. To be bonded.  
 1-302. Generally supervises city's affairs.  
 1-303. Purchasing.

**1-301. To be bonded.** Pursuant to Tennessee Code Annotated, § 6-21-104 the city manager shall, before entering upon his duties, execute a fidelity bond in the amount of five thousand dollars (\$5,000.00), with a surety company authorized to do business in the State of Tennessee as surety. (1995 Code, § 1-301)

**1-302. Generally supervises city's affairs.** The city manager shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his responsibilities. (1995 Code, § 1-302)

**1-303. Purchasing.**<sup>2</sup> The city manager is hereby authorized to purchase materials, supplies and equipment for the proper conduct of the city's business up to a maximum expenditure of five hundred dollars (\$500.00) without specific authorization of the board. (1995 Code, § 1-303)

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<sup>1</sup>Charter reference

For charter provisions outlining the appointment and removal of the city manager, see Tennessee Code Annotated, title 6, chapter 21, part 1, particularly § 6-21-101. For specific charter provisions related to the duties and powers of the city manager, see the sections indicated:

Administrative head of city: § 6-21-107.

Appointment and removal of officers and employees: §§ 6-21-102, 6-21-108, 6-21-401, 6-21-601, 6-21-701 and 6-21-704, 6-22-101.

General and specific administrative powers: § 6-21-108.

School administration: § 6-21-801.

Supervision of departments: § 6-21-303.

<sup>2</sup>Charter reference

Powers and duties of city manager: § 6-21-108.

## CHAPTER 4

### ETHICS POLICY

#### SECTION

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

**1-401. Applicability.** This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #7-01, March 2007)

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

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #7-01, March 2007)



**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (Ord. #7-01, March 2007)

**1-404. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #7-01, March 2007)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #7-01, March 2007)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #7-01, March 2007)

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

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #7-01, March 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #7-01, March 2007)

**1-409. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #7-01, March 2007)

**1-410. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #7-01, March 2007)

**1-411. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #7-01, March 2007)

**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.**

**[RESERVED FOR FUTURE USE]**

## TITLE 3

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

#### CHAPTER

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

#### CHAPTER 1

#### CITY JUDGE

#### SECTION

3-101. City judge.

**3-101. City judge.** The city court shall be presided over by a city judge appointed by the board of commissioners. (1995 Code, § 3-101)

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

For provisions of the charter governing the city judge and city court operations, see Tennessee Code Annotated, title 6, chapter 21, part 5. For specific charter provisions in part 5 related to the following subjects, see the sections indicated:

##### City judge:

Appointment and term: § 6-21-501.

Jurisdiction: § 6-21-501.

Qualifications: § 6-21-501.

##### City court operations:

Appeals from judgment: § 6-21-508.

Appearance bonds: § 6-21-505.

Arrest warrants: § 6-21-504.

Docket maintenance: § 6-21-503.

##### Fines and costs:

Amounts: §§ 6-21-502, 6-21-507.

Collection: § 6-21-507.

Disposition: § 6-21-506.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

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

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; and all other information which may be relevant. (1995 Code, § 3-201)

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

In all cases heard and determined by him/her, the city judge shall impose court costs in the amount of one hundred dollars (\$100.00). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. In addition, the court shall levy a state litigation tax in the amount of thirteen dollars seventy-five cents (\$13.75) in all cases in which the state litigation tax is required. In addition, the municipal court clerk shall levy a thirteen dollar seventy-five cent (\$13.75) city litigation tax in all cases where the defendant fails to pay or appear.<sup>1</sup> (1995 Code, § 3-202, as amended by Ord. #10-05, Sept. 2010, and Ord. #20-01, July 2020 *Ch2\_7-27-20*)

**3-203. Disposition and report of fines, penalties, and costs.** All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of commissioners a report accounting for the collection or non-collection of all fines, penalties and costs imposed by his court during the current month and to date for the current fiscal year. (1995 Code, § 3-203)

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<sup>1</sup>Charter reference

Collection of fines and costs: § 6-21-507.

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1995 Code, § 3-204)

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1995 Code, § 3-205)

**CHAPTER 3****WARRANTS, SUMMONSES AND SUBPOENAS****SECTION**

3-301. Issuance of subpoenas.

**3-301. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1995 Code, § 3-302)



**CHAPTER 4****BONDS AND APPEALS****SECTION**

3-401. Appeals.

**3-401. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days, (Sundays exclusive) next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1995 Code, § 3-402)

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<sup>1</sup>Charter reference

Appeal from city judge's judgment: § 6-21-508.

State law reference

Tennessee Code Annotated, § 27-5-101.

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER**

1. MISCELLANEOUS REGULATIONS--CITY PERSONNEL.
2. TRAVEL REIMBURSEMENT.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

**CHAPTER 1****MISCELLANEOUS REGULATIONS--CITY PERSONNEL****SECTION**

- 4-101. Business dealings.
- 4-102. Political activity.
- 4-103. Strikes and unions.
- 4-104. Personnel policies and procedures.

**4-101. Business dealings.** Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (1995 Code, § 4-101)

**4-102. Political activity.** (1) Municipal employees shall enjoy the same rights as other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. However, the city is not required to pay the employee's salary for work not performed for the governmental entity.

(2) Notwithstanding subsection (1), a municipal employee of the City of Tusculum shall not be permitted to qualify to run for the Board of Mayor and Commissioners of the City of Tusculum.

(3) An employee may not engage in political activity while on duty. Any time off work used by the employee for participation in political activities, shall be limited to earned days off, vacation days, or by any other arrangement agreed upon between the employee and the City of Tusculum. (1995 Code, § 4-103)

**4-103. Strikes and unions.** No municipal officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1995 Code, § 4-106)

**4-104. Personnel policies and procedures.** Personnel policies and procedures for the City of Tusculum shall be governed by Ord. #13-05, titled "A Resolution Adopting a Personnel Policies and Procedures Handbook for the City of Tusculum, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ord. #13-05, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 2

### TRAVEL REIMBURSEMENT

#### SECTION

- 4-201. Purpose.
- 4-202. Enforcement.
- 4-203. Travel policy.
- 4-204. Travel reimbursement rate schedules.
- 4-205. Administrative procedures.

**4-201. Purpose.** The purpose of this ordinance and referenced regulations is to bring the city into compliance with Tennessee Code Annotated, § 6-54-901--907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1995 Code, § 4-201)

**4-202. Enforcement.** The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (1995 Code, § 4-202)

**4-203. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be

(a) Directly related to the conduct of the city business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle travel, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (1995 Code, § 4-203)

**4-204. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the State of Tennessee (enter either federal or State of Tennessee) travel regulation rates. The city's travel reimbursement rates will automatically change when the state (federal or state) rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (1995 Code, § 4-204)

**4-205. Administrative procedures.** The city adopts and incorporates by reference - as if fully set out herein - the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the city recorder. (1995 Code, § 4-205)

## CHAPTER 3

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.

**4-301. Title.** This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Tusculum. (Ord. #13-04, April 2013)

**4-302. Purpose.** The City of Tusculum in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

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

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

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

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

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #13-04, April 2013)

**4-303. Coverage.** The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Tusculum shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #13-04, April 2013)

**4-304. Standards authorized.** The Occupational Safety and Health standards adopted by the City of Tusculum are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.<sup>1</sup> (Ord. #13-04, April 2013)

**4-305. Variances from standards authorized.** Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #13-04, April 2013)

**4-306. Administration.** For the purposes of this chapter, the city recorder is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.

operation<sup>1</sup> for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (Ord. #13-04, April 2013)

**4-307. Funding the program.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Tusculum. (Ord. #13-04, April 2013)

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<sup>1</sup>Appendices I through IV "Plan of Operation for the Occupational Safety and Health Program Plan for the Employees of City of Tusculum" has been added to this code as Appendix A.



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

1. MISCELLANEOUS.
2. WHOLESALE BEER TAX.
3. PURCHASING.

**CHAPTER 1****MISCELLANEOUS****SECTION**

- 5-101. Official depositories for city funds.
- 5-102. Use of collection agency to collect unpaid fines.

**5-101. Official depositories for city funds.** Any banking institution which is a member of the Federal Reserve System and which is insured by the Federal Deposit Corporation is hereby designated as an official depository for all municipal funds.<sup>2</sup> (1995 Code, § 5-101)

**5-102. Use of collection agency to collect unpaid fines.** (1) The city is hereby authorized to solicit and use the services of a collection agency to collect unpaid fines.

(2) The contract with such collection agency shall be in writing and conform to all provisions set forth in Tennessee Code Annotated, § 40-24-105(d).

(3) This section shall take effect fifteen (15) days from and after final passage of the ordinance comprising this section, the public welfare requiring it. (Ord. #10-06, Sept. 2010)

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<sup>1</sup>Charter reference

Finance and taxation: title 6, chapter 22.

<sup>2</sup>Charter reference

Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

## CHAPTER 2

WHOLESALE BEER TAX

## SECTION

5-201. To be collected.

**5-201. To be collected.** The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1995 Code, § 5-201)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of seventeen percent (17%) on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

## CHAPTER 3

### PURCHASING

#### SECTION

- 5-301. Purchase amounts \$0--\$2,500.00.
- 5-302. Purchase amounts \$2,501.00--\$9,999.99.
- 5-303. Purchase amounts \$10,000.00 and above.
- 5-304. Split purchases.
- 5-305. Exceptions.

**5-301. Purchase amounts \$0--\$2,500.00.** For purchase amounts of zero to two thousand five hundred dollars (\$0--\$2,500.00), no advertisement or competitive bidding shall be required. (Ord. #13-03, April 2013)

**5-302. Purchase amounts \$2,501.00--\$9,999.99.** For purchase amounts two thousand five hundred and one to nine thousand nine hundred and ninety nine dollars (\$2,501.00--\$9,999.99), there shall be required at least three (3) bids. However, those bids may be informal, requiring only a telephone quote and documentation of calls. If three (3) bids are not received, two (2) bids shall meet the requirement. (Ord. #13-03, April 2013)

**5-303. Purchase amounts \$10,000.00 and above.** For purchase amounts ten thousand dollars (\$10,000.00) and above, there shall be required a public advertisement and three (3) competitive bids solicited. If three (3) bids are not received, two (2) bids shall meet the requirement. (Ord. #13-03, April 2013)

**5-304. Split purchases.** Purchases cannot be split for the purpose of avoiding bidding requirements set forth in §§ 5-301, 5-302 and 5-303. (Ord. #13-03, April 2013)

**5-305. Exceptions.** There are a number of exceptions to the bidding requirements mentioned above. Bids are not required for: professional services (such as attorney); purchases made from the State of Tennessee contract price; purchases made from an exempt agency such as the Local Government Data Processing Corporation; purchases from another city or county and purchases made due to an emergency. These exceptions are limited to amounts up to thirty thousand dollars (\$30,000.00). All purchases must be made within the limits of the approved budget. (Ord. #13-03, April 2013)

## TITLE 6

### LAW ENFORCEMENT

#### CHAPTER

1. POLICE AND ARREST.
2. POLICE DEPARTMENT AUXILIARY FORCE.

#### CHAPTER 1

### POLICE AND ARREST

#### SECTION

- 6-101. Police officers subject to chief's orders.  
6-102. Police officers to preserve law and order, etc.  
6-103. Police officers to wear uniforms and be armed.  
6-104. When police officers to make arrests.  
6-105. Police department records.

**6-101. Police officers subject to chief's orders.** All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1995 Code, § 6-101)

**6-102. Police officers to preserve law and order, etc.** Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1995 Code, § 6-102)

**6-103. Police officers to wear uniforms and be armed.** All police officers shall wear such uniform and badge as the board of commissioners shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1995 Code, § 6-103)

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

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1995 Code, § 6-104)

**6-105. Police department records.** The police department shall keep a comprehensive and detailed daily record, in permanent form, showing:

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

(2) All arrests made by police officers.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1995 Code, § 6-107)

## CHAPTER 2

### POLICE DEPARTMENT AUXILIARY FORCE

#### SECTION

6-201. Definition.

6-202. Appointment.

6-203. Compensation.

6-204. Supervision.

6-205. Departmental rules and regulations.

6-206. Powers of volunteer auxiliary officers.

6-207. Effect of ordinance.

**6-201. Definition.** The Police Department Auxiliary Force is a volunteer organization, the members of which have enrolled as a civic service to assist the regular police force of the Tusculum Police Department. (1995 Code, § 6-201)

**6-202. Appointment.** Members of the auxiliary force shall be appointed by the mayor with the consent of the board of commissioners. (1995 Code, § 6-202)

**6-203. Compensation.** Members of the auxiliary force shall receive no salary or compensation for their services, except members may receive up to eight dollars (\$8.00) per shift and no more than thirty-two dollars (\$32.00) per month to cover normal and usual types of expenses incurred. For appearances in court as witnesses, such member shall be entitled to receive the fees provided by law for witnesses. (1995 Code, § 6-203)

**6-204. Supervision.** The chain of command to administer supervision of the auxiliary officers shall be mayor, vice-mayor and commissioner. (1995 Code, § 6-204)

**6-205. Departmental rules and regulations.** Members of the auxiliary police force shall be governed by pertinent rules and regulations of the Tusculum Police Department. (1995 Code, § 6-205)

**6-206. Powers of volunteer auxiliary officers.** The at-will volunteer members of the auxiliary force shall have, and there is hereby conferred upon them, the powers to act as police officers, being peace officers or special police officers, provided they meet Tennessee Training and Certification requirements for auxiliary officers. In no event shall these powers be executed outside the city limits of Tusculum unless accompanied by a full-time, on-duty, certified Tusculum Police Officer. (1995 Code, § 6-206)

**6-207. Effect of ordinance.** This ordinance shall be construed to be amendatory, by implication, of any other ordinances of the City of Tusculum, creating the Volunteer Auxiliary Force and regulating its duties; and this ordinance shall take effect from and after its passage, the public welfare requiring it. (1995 Code, § 6-207)

**TITLE 7**

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

**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIREWORKS.
5. RAPID ENTRY SYSTEM.

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be that area zoned as the B-1 business district. (1995 Code, § 7-101)

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.



**CHAPTER 2****FIRE CODE**<sup>1</sup>**SECTION**

- 7-201. Fire code adopted.
- 7-202. Modifications.
- 7-202. Enforcement.
- 7-204. Gasoline trucks.
- 7-205. Variances.
- 7-206. Available in recorder's office.
- 7-206. Violations and penalty.

**7-201. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating exits, egress capacity, stairways, fire escapes, travel distance to egress, special locking arrangements in place of assembly occupancies, in any building or structure. The International Fire Code,<sup>2</sup> 2012 edition, including all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the fire code.

**7-202. Modifications.** The following section is hereby revised to read as follows:

**Definitions.** Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Tusculum, Tennessee.

**7-203. Enforcement.** The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1995 Code, § 7-202)

**7-204. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1995 Code, § 7-204)

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

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

**7-205. Variances.** The chief of the volunteer fire department may recommend to the board of commissioners variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of commissioners. (1995 Code, § 7-205)

**7-206. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**7-207. Violations and penalty.** It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the council of the municipality or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions.

## CHAPTER 3

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

#### SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.

**7-301. Establishment, equipment, and membership.** There is hereby established a volunteer fire department to be supported and equipped by appropriations by the board of commissioners by donations from the citizens of the community, and by fundraisers conducted by the department. The volunteer fire department shall be composed of a chief elected by fire department members and approved by the board of commissioners, and such number of subordinate officers and fire personnel as elected by the membership of the fire department. (1995 Code, § 7-301)

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

For detailed charter provisions governing the operation of the fire department, see Tennessee Code Annotated, title 6, chapter 21, part 7. For specific provisions in part 7 related to the following subjects, see the sections indicated.

##### Fire chief

Appointment: § 6-21-701.

Duties: § 6-21-702.

Emergency: § 6-21-703.

##### Fire marshal: § 6-21-704

##### Firemen

Appointment: § 6-21-701.

Emergency powers: § 6-21-703.

#### Municipal code reference

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

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1995 Code, § 7-302)

**7-303. Organization, rules, and regulations.** The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1995 Code, § 7-303)

**7-304. Records and reports.** The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on those matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1995 Code, § 7-304)

**7-305. Tenure of members.** The chief shall hold office so long as he is elected or re-elected by the membership of the fire department and approved by the board of commissioners. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. (1995 Code, § 7-305)

**7-306. Chief responsible for training and maintenance.** The chief of the volunteer fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1995 Code, § 7-306)

**7-307. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the volunteer fire department is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1995 Code, § 7-307)

## CHAPTER 4

### FIREWORKS

#### SECTION

7-401. Definitions.

7-402. Unlawful acts.

7-403. Violations.

7-404. Seizure and destruction of fireworks.

**7-401. Definitions.** As used in this chapter the following terms shall have the meaning ascribed to them as set forth in Tennessee Code Annotated unless clearly indicated otherwise:

(1) "Fireworks" means any pyrotechnics commonly known as "fireworks," and including all those substances subject to regulation as set forth in Tennessee Code Annotated, § 68-104-101 et seq.

(2) "Person" means any individual, firm, partnership, or corporation.

(3) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, or one or more individuals. (1995 Code, § 7-401)

**7-402. Unlawful acts.** It shall be unlawful for any person to possess, sell, explode, ignite, use, discharge, throw, display, store, place, locate, ship into or out of, deliver, purchase, manufacture, or distribute any "fireworks" within the corporate limits of the City of Tusculum, Tennessee. (1995 Code, § 7-402)

**7-403. Violations.** Any person violating any provision of this chapter shall be subject to punishment as provided by the penalty clause section 5, Code Adopting Ordinance, Municipal Code of the City of Tusculum, Tennessee. (1995 Code, § 7-403)

**7-404. Seizure and destruction of fireworks.** Any lawful officer of the State of Tennessee, City of Tusculum, or State Fire Marshal Office, shall be authorized to seize and destroy as contraband any fireworks sold, displayed, used, or possessed in violation of this chapter, in accordance with those provisions as set forth in Tennessee Code Annotated, § 68-104-115, as amended, from time to time. (1995 Code, § 7-404)

## CHAPTER 5

### RAPID ENTRY SYSTEM

#### SECTION

- 7-501. Fire department repository unit--required.
- 7-502. Keys required.
- 7-503. Access to fire department repository unit.
- 7-504. Rules and regulations.
- 7-505. Update of keys and information.
- 7-506. Limitation of liability.

**7-501. Fire department repository unit--required.** (1) The owner or person in control of the following types of buildings shall install and maintain a fire department repository unit of a type approved by the fire chief:

(a) New construction of any apartment building or other rental building containing four (4) or more residential living units and in which access to the building or to common areas or mechanical or electrical rooms within the building is denied through locked doors.

(b) New construction of any non-residential building where a fire detection or suppression system is monitored by an alarm company or has an external audible alarm.

(c) New construction of any building or facility containing a quantity of hazardous materials which would require compliance with title III of SARA (Superfund Amendment Reauthorization Act).

(d) New installation of private security gates for subdivisions.  
(Ord. #13-02, May 2013)

**7-502. Keys required.** The owner or person in control of buildings or facilities described in § 7-501 required to have a fire department repository unit shall cause to be placed in such repository unit a key to the following areas:

- (1) Locked points of access in the exterior of the building or facility;
- (2) Locked points of access to common areas, such as hallways or utility rooms, contained within such buildings or facilities;
- (3) Locked mechanical rooms;
- (4) Locked electrical rooms;
- (5) All other locked areas, other than individual apartments or rented rooms, as directed by the chief. (Ord. #13-02, May 2013)

**7-503. Access to fire department repository unit.** The owner or person in control of any building or facility described in § 7-501 required to have a fire repository unit shall be present, himself or through his agent, during access to such repository unit by the fire department except when the fire

department has responded to an emergency at the property. (Ord. #13-02, May 2013)

**7-504. Rules and regulations.** The fire chief may establish rules and regulations for the placement and maintenance of fire department repository units within the city, including approved types of fire department repository units. Proposed rules and regulations and any substantive amendment thereof will be submitted to the board of mayor and commissioners for approval and filed with the city recorder and shall become effective fourteen (14) days after approval by the board of mayor and commissioners. (Ord. #13-02, May 2013)

**7-505. Update of keys and information.** The owner or person in control of any building or facility described in § 7-501 required to have a fire department repository unit shall do the following:

(1) Provide keys capable of access to such fire department repository unit at all times to the fire department.

(2) Maintain current information of hazardous materials stored in the building or facility in the fire department repository unit or, if the volume of material is too large to place in the repository unit, shall file said information with the fire chief. (Ord. #13-02, May 2013)

**7-506. Limitation of liability.** The city assumes no liability for any of the following:

(1) Any defects in the operation of the repository unit, of any of the keys contained within such repository unit or any information stored within the repository unit or otherwise provided to the city;

(2) The failure or neglect to respond appropriately upon receipt of an alarm from an alarm system;

(3) The failure or neglect of any owner or person in control of a building or facility required to have a repository unit to provide access to the repository unit; or

(4) Any breach in the security of any property due to any person's access to a repository unit, whether that access is authorized or unauthorized. (Ord. #13-02, May 2013)

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

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

**CHAPTER 1****INTOXICATING LIQUORS****SECTION**

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Location of establishments serving alcoholic beverages on premises.
- 8-104. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-105. Annual privilege tax to be paid to the city recorder.
- 8-106. Employees of establishments serving alcoholic beverage on premises.
- 8-107. Advertisement of alcoholic beverages

**8-101. Definition of alcoholic beverages.** As used in this chapter, unless the context indicates otherwise: Alcoholic beverages means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of eight percent (8%) by weight, or less. (1995 Code, § 8-101, as replaced by Ord. #17-01, Feb. 2017)

**8-102. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Tusculum, Tennessee. It is the intent of the board of mayor and commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Tusculum,

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.



Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #17-01, Feb. 2017)

**8-103. Location of establishments serving alcoholic beverages on premises.** No approval will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the on-premise sale of liquor within three hundred feet (300') of any residential dwelling, hospital, school, church or other place of public gathering, provided the owner of said residential dwelling appears in person before the city commission and objects to such approval. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the liquor will be sold to the nearest point on the property line of the residential dwelling, hospital, school, church or other place of public gathering. (as added by Ord. #17-01, Feb. 2017)

**8-104. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Tusculum General Fund to be paid annually as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Tusculum on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #17-01, Feb. 2017)

**8-105. Annual privilege tax to be paid to the city recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Tusculum shall remit annually to the city recorder the appropriate tax described in § 8-104. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #17-01, Feb. 2017)

**8-106. Employees of establishments serving alcoholic beverages on premises.** No person shall be employed in the sale of alcoholic beverages except a citizen of the United States. No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of

eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the storage, sale, or distribution of alcoholic beverages. (as added by Ord. #17-01, Feb. 2017)

**8-107. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission and the sign and zoning regulations of the City of Tusculum. (as added by Ord. #17-01, Feb. 2017)

## CHAPTER 2

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

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.

**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chairman of the beer board. (1995 Code, § 8-201)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1995 Code, § 8-202)

**8-203. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc.,

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<sup>1</sup>Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982).

before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1995 Code, § 8-203)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1995 Code, § 8-204)

**8-205. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1995 Code, § 8-205)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than eight percent (8%) by weight. (1995 Code, § 8-206, as amended by Ord. #17-03, March 2017)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Tusculum. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (1995 Code, § 8-207)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Tusculum, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1995 Code, § 8-208)

**8-209. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate

permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. A single permit may be issued for on premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1995 Code, § 8-209)

**8-210. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any residential dwelling, hospital, school, church or other place of public gathering, provided the owner of said residential dwelling appears in person before the city beer board and objects to the issuance of such beer permits. The distances shall be measured in a straight line<sup>1</sup> from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the residential dwelling, hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 1993. (1995) Code, § 8-210)

**8-211. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 625 S. W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (1995 Code, § 8-211)

**8-212. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

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

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week; at any time on Sunday; or on election days before and while the polls are lawfully open.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

(6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than eight percent (8%) by weight.

(9) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(11) Sell or distribute beer at locations operating a dance hall or where dancing is permitted. (1995 Code, § 8-212, as amended by Ord. #17-03, March 2017)

**8-213. Revocation of beer permits.** The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (1995 Code, § 8-213)

**8-214. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (1995 Code, § 8-214)

## CHAPTER 3

### PACKAGE LIQUOR STORES

#### SECTION

- 8-301. Alcoholic beverages subject to regulation.
- 8-302. Application for certificate.
- 8-303. Applicant to agree to comply with laws.
- 8-304. Applicant to appear before board of mayor and commissioners;  
duty to give information.
- 8-305. Action on application.
- 8-306. Residency requirement.
- 8-307. Applicants for certificate who have criminal record.
- 8-308. Only one establishment to be operated by retailer.
- 8-309. Where establishments may be located.
- 8-310. Retail stores to be on ground floor; entrances; construction.
- 8-311. Limitation on number of retailers.
- 8-312. Sales for consumption on premises.
- 8-313. Radios, amusement devices and seating facilities prohibited in  
retail establishments.
- 8-314. Restrictions on employees of package liquor stores.
- 8-315. Inspection fee.
- 8-316. Violations.

**8-301. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57, chapter 3. (as added by Ord. #17-02, Feb. 2017)

**8-302. Application for certificate.**<sup>1</sup> Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any commissioner, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Time of residence in Tennessee.
- (3) Occupation or business and length of time engaged in such occupation or business.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208.



(4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.

(5) If employed, the name and address of employer.

(6) If in business, the kind of business and location thereof.

(7) The location of the proposed store for the sale of alcoholic beverages.

(8) The name and address of the owner of the store.

(9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

(10) Certain financial information pertinent to the applicant, partnership, corporation and partners or stockholders.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. A non-refundable application fee of two hundred fifty dollars (\$250.00) shall be submitted with the application. (as added by Ord. #17-02, Feb. 2017)

**8-303. Applicant to agree to comply with laws.** The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the State of Tennessee for sale of alcoholic beverages. (as added by Ord. #17-02, Feb. 2017)

**8-304. Applicant to appear before Board of Mayor and Commissioners; duty to give information.** An applicant for a certificate of compliance may be required to appear in person before the board of mayor and commissioners for such reasonable examination as may be desired by the board. (as added by Ord. #17-02, Feb. 2017)

**8-305. Action on application.** Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and commissioners within thirty (30) days of the date each application was filed.

The board of mayor and commissioners may issue a certificate of compliance to any applicant which meets the requirements herein, which shall be signed by the mayor or by a majority of the board of mayor and commissioners. (as added by Ord. #17-02, Feb. 2017)

**8-306. Residency requirement.**<sup>1</sup> The applicant for a certificate of compliance shall have been a bona fide resident of Tennessee for a period of not less than two (2) years at the time the application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Tennessee for a period of not less than two (2) years at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years. (as added by Ord. #17-02, Feb. 2017)

**8-307. Applicants for certificate who have criminal record.** No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #17-02, Feb. 2017)

**8-308. Only one establishment to be operated by retailer.** No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (as added by Ord. #17-02, Feb. 2017)

**8-309. Where establishments may be located.** It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose. No certificate will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the retail sale of liquor within three hundred feet (300') of any residential dwelling, hospital, school, church or other place of public gathering, provided the owner of said residential dwelling appears in person before the city commission and objects to the issuance of such certificates. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208(c).

building from which the liquor will be sold to the nearest point on the property line of the residential dwelling, hospital, school, church or other place of public gathering. (as added by Ord. #17-02, Feb. 2017)

**8-310. Retail stores to be on ground floor; entrances; construction.** No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

In addition, all liquor stores shall be a permanent type of construction. No liquor stores shall be located in a manufactured or other moveable or prefabricated type building. All liquor stores shall have night lights surrounding the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the interior of the liquor store shall be one thousand two hundred (1,200) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway or street to the interior of the liquor store by the way of large windows in the front, and to the extent practicable, to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, adopted by the city, unless specifically provided otherwise. (as added by Ord. #17-02, Feb. 2017)

**8-311. Limitation on number of retailers.**<sup>1</sup> Number of retail licenses for the sale of alcoholic beverages will be limited as shown in the chart below:

<u>Tusculum Population</u>	<u>Number of Retail Licenses Allowed</u>
1 - 3000	1
3001 - 6000	2
6001 - 9000	3

(as added by Ord. #17-02, Feb. 2017)

**8-312. Sales for consumption on premises.** No alcoholic beverages shall be sold for consumption, or shall be consumed, on the premises of the retail seller. (as added by Ord. #17-02, Feb. 2017)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208(c).

**8-313. Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, television sets, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment, other than in employee-only areas. No seating facilities shall be provided for persons other than employees. (as added by Ord. #17-02, Feb. 2017)

**8-314. Restrictions on employees of package liquor stores.** No person shall be employed in the sale of alcoholic beverages except a citizen of the United States. No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the storage, sale, or distribution of alcoholic beverages. (as added by Ord. #17-02, Feb. 2017)

**8-315. Inspection fee.** The City of Tusculum hereby imposes an annual inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages in a package liquor store in the City of Tusculum shall remit annually to the city recorder the appropriate inspection fee described in Tennessee Code Annotated, § 57-3-501. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the certificate. Upon the transfer of ownership of such business or the discontinuance of such business, said fee shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate fee when due shall be subject to the penalty provided by law. (as added by Ord. #17-02, Feb. 2017)

**8-316. Violations.** Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the City from exercising any criminal or civil remedies that it may have with respect to violations of this chapter. (as added by Ord. #17-02, Feb. 2017)

## CHAPTER 4

### WINE IN RETAIL FOOD STORES

#### SECTION

8-401. Inspection fee on retail food store wine licensees.

8-402. Application for certificate.

**8-401. Inspection fee on retail food store wine licensees.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-3-501 et seq., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee. (as added by Ord. #18-05, Jan. 2019 *Ch2\_7-27-20*)

**8-402. Application for certificate.** Before any certificate, as required by Tennessee Code Annotated, § 57-3-806, shall be signed by the mayor, a request in writing shall be filed with the city manager giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (as added by Ord. #18-05, Jan. 2019 *Ch2\_7-27-20*)

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

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. CABLE TELEVISION.

**CHAPTER 1****MISCELLANEOUS****SECTION**

- 9-101. "Going out of business" sales.  
9-102. Hours regulated.

**9-101. "Going out of business" sales.** It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days, he shall prima facie be deemed to have violated this section. (1995 Code, § 9-101)

**9-102. Hours regulated.** Pool halls, pawnbrokers, auction houses or establishments for adult entertainment shall close at or before 11:00 P.M. and shall remain closed until 6:00 A.M. No business shall be carried on between those hours. (1995 Code, § 9-102)

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

## CHAPTER 2

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

#### SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. Violation and penalty.

**9-201. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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<sup>1</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

(a) Has a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Greene County for a period of two (2) years prior to the date of its application for registration under this chapter.

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

(5) "Transient vendor"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to

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<sup>1</sup>State law references

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

The definition of "transient vendors" is taken from Tennessee Code Annotated § 62-30-101(3). Note also that Tennessee Code Annotated § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated § 67-4-709(b).



selling or offering to sell novelty items and similar goods in the area of the festival or parade.

**9-202. Exemptions.** The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.

**9-203. Permit required.** No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

**9-204. Permit procedure.** (1) Application form. A sworn application containing the following information shall be completed and filed with the city recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

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

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

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

(f) Tennessee State sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit.

**9-205. Restrictions on peddlers, street barkers and solicitors.** No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

**9-206. Restrictions on transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

**9-207. Display of permit.** Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

**9-208. Suspension or revocation of permit.** (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

- (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
- (b) Any violation of this chapter.

(2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city recorder in

writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

**9-209. Expiration and renewal of permit.** The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

**9-210. Violation and penalty.** In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

## CHAPTER 3

### CHARITABLE SOLICITORS

#### SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.
- 9-305. Trespassing.
- 9-306. Violations.

**9-301. Permit required.** No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1995 Code, § 9-301)

**9-302. Prerequisites for a permit.** The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1995 Code, § 9-302)

**9-303. Denial of a permit.** Any applicant for a permit to make charitable or religious solicitations may appeal to the board of commissioners if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1995 Code, § 9-303)

**9-304. Exhibition of permit.** Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1995 Code, § 9-304)

**9-305. Trespassing.** It shall be unlawful and deemed to be a trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1995 Code, § 9-305)

**9-306. Violations.** Any person violating any provision of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided in the general penalty clause for this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1995 Code, § 9-306)

## CHAPTER 4

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

#### SECTION

- 9-401. Pool rooms subject to regulation.
- 9-402. "Pool room" defined.
- 9-403. Application for and conditions upon which permit is allowed.
- 9-404. Application to be public record; effect of false statements.
- 9-405. Issuance of permit and license.
- 9-406. Permit good for one year but not transferrable.
- 9-407. Compliance with statements in application required.
- 9-408. Suspension or revocation of permit.
- 9-409. Violations.

**9-401. Pool rooms subject to regulation.** The business of operating pool rooms within the corporate limits of the City of Tusculum, Tennessee, shall be subject to the regulations hereinafter set out and provided. (1995 Code, § 9-401)

**9-402. "Pool room" defined.** A "pool room" is any place or premises upon or in which billiard tables, pool tables, bagatelle tables, or similar tables are kept for public use or hire. (1995 Code, § 9-402)

**9-403. Application for and conditions upon which permit is allowed.** All persons, firms, corporations, or associations who shall desire to engage in the business of operating a pool room shall apply in writing to the board of commissioners, under oath and on a form prescribed by it, for a permit thereafter to engage in the business of operating a pool room within the City of Tusculum. The application shall contain statements of the following, which shall be conditions upon which the permit is granted and allowed to continue in force:

(1) That if the applicant is a corporation, it is authorized to do business within the State of Tennessee.

(2) That neither the applicant nor any person or persons employed by him or it in such business of operating a pool room has been convicted of any violation of the laws of Tennessee or any crime involving moral turpitude within the past ten (10) years.

(3) That no person under eighteen (18) years of age shall be permitted or allowed to be in or to loiter around the place of business in which the business of conducting the pool room is carried on.

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

(4) That no sale, distribution, or consumption of any alcoholic beverages will be permitted upon the premises in which the business of conducting a pool room is carried on.

(5) That proper sanitary facilities shall be provided upon the premises.

(6) The applicant has a suitable location to conduct the place of business.

(7) That in the place of business, no loud, unusual, or obnoxious noises shall be allowed, and that the applicant shall conduct such place of business otherwise in an orderly, peaceable, and lawful manner.

(8) The applicant shall state specifically whether the person so applying will conduct the business in person, or whether he is acting as agent for any other person, firm, corporation, or association, and shall also state specifically the name of the owner or owners of the business. (1995 Code, § 9-403, modified)

**9-404. Application to be public record; effect of false statements.**

The application shall at all times be kept on file by the board of commissioners and shall be open to inspection by the general public. Any person, firm, corporation, or association making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (1995 Code, § 9-404)

**9-405. Issuance of permit and license.** When an application has been submitted to the board, it shall be carefully examined by the board and a record of its action thereon shall be kept in writing as a part of the regular proceedings of the board. Upon favorable action by the board on an application, a permit shall be issued to the applicant. The permit thus obtained shall entitle the applicant to obtain from the recorder of the City of Tusculum a license to engage in the business of operating a pool room. However, no license shall be issued by the recorder until the privilege tax is paid and the permit has been filed with the recorder. (1995 Code, § 9-405)

**9-406. Permit good for one year but not transferrable.** The permit thus obtained shall remain in full force and effect for a period of one (1) year from the date of issuance unless the owner shall sooner transfer the title of ownership of his business to another person, firm, or corporation, or shall sooner move the site or location of his business to a new location. Upon the happening of either event, the permit shall terminate and be of no further force and effect. Also, the permit may be terminated and cancelled by the board for any violation of the provisions of this chapter in the manner as hereinafter set out and provided. (1995 Code, § 9-406)

**9-407. Compliance with statements in application required.** No permit to operate a pool room shall be granted to any person, firm, corporation, or association, nor shall any license be allowed to continue in force unless the applicant or licensee shall comply with all of the statements made in the application, the provisions of this chapter, and the applicable statutes of the State of Tennessee. (1995 Code, § 9-407)

**9-408. Suspension or revocation of permit.** Any failure to comply with this chapter shall constitute sufficient grounds for the suspension or revocation of a pool room permit by the board of commissioners.

Complaints brought for the purpose of suspending or revoking a permit issued pursuant to the provisions of this chapter shall be made in writing and filed with the mayor, who shall thereupon give or cause to be given regular notice, accompanied by a copy of the written complaint, commanding the person, firm, corporation, or association so charged to appear at a time and place designated in the notice before the board of commissioners to show cause why his permit should not be suspended or revoked. The notice shall be served either by registered letter or by a policeman of the City of Tusculum at least ten (10) days prior to the date of the hearing when such person, firm, corporation, or association is required to appear. Upon the hearing, the board shall publicly hear and determine the nature and merits of the complaint and for this purpose the mayor is authorized to compel the attendance of witnesses by subpoena. After such hearing, the board may for proper cause suspend or revoke the permit. (1995 Code, § 9-408)

**9-409. Violations.** It is hereby declared to be a misdemeanor for any person, firm, corporation, or association to violate the provisions of this chapter or to engage in the business of operating a pool room within the corporate limits of the City of Tusculum without having obtained a permit and license as herein provided. (1995 Code, § 9-409)



**CHAPTER 5**

**CABLE TELEVISION**

**SECTION**

9-501. To be furnished under franchise.

**9-501. To be furnished under franchise.** Cable television service shall be furnished to the City of Tusculum and its inhabitants under franchise as the board of commissioners shall grant. The rights, powers, duties and obligations of the City of Tusculum and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ords. #90-1, Feb. 1990, and #03-2, Oct. 2003, in the office of the city recorder.

**TITLE 10****ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOGS AND CATS.

**CHAPTER 1****IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- 10-108. Inspections of premises.

**10-101. Running at large prohibited.** It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1995 Code, § 10-101)

**10-102. Keeping near a residence or business restricted.** No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1995 Code, § 10-102)

**10-103. Pen or enclosure to be kept clean.** When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1995 Code, § 10-103)

**10-104. Adequate food, water, and shelter, etc., to be provided.** No animal or fowl shall be kept or confined in any place where the food, water,

shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1995 Code, § 10-104)

**10-105. Keeping in such manner as to become a nuisance prohibited.** No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1995 Code, § 10-105)

**10-106. Cruel treatment prohibited.** It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1995 Code, § 10-106)

**10-107. Seizure and disposition of animals.** Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of commissioners. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of commissioners.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of commissioners, to cover the costs of impoundment and maintenance. (1995 Code, § 10-107)

**10-108. Inspections of premises.** For the purpose of making inspections to insure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1995 Code, § 10-108)

## CHAPTER 2

### DOGS AND CATS

#### SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs and cats to be securely restrained.
- 10-205. Noisy dogs and cats prohibited.
- 10-206. Confinement of dogs and cats suspected of being rabid.
- 10-207. Seizure and disposition of dogs and cats.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1995 Code, § 10-201)

**10-202. Dogs and cats to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1995 Code, § 10-202)

**10-203. Running at large prohibited.**<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits. (1995 Code, § 10-203)

**10-204. Vicious dogs and cats to be securely restrained.** It shall be unlawful for any person to own or keep any dog or cat known to be vicious or dangerous unless such dog or cat is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1995 Code, § 10-204)

**10-205. Noisy dogs and cats prohibited.** No person shall own, keep, or harbor any dog or cat which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1995 Code, § 10-205)

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<sup>1</sup>State law reference

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

**10-206. Confinement of dogs and cats suspected of being rabid.** If any dog or cat has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog or cat to be confined or isolated for such time as he reasonably deems necessary to determine if such dog or cat is rabid. (1995 Code, § 10-206)

**10-207. Seizure and disposition of dogs and cats.** Any dog or cat found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the board of commissioners. If said dog or cat is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog or cat by paying a reasonable pound fee, in accordance with a schedule approved by the board of commissioners, or the dog or cat will be humanely destroyed or sold. If said dog or cat is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog or cat shall be released in any event from the pound unless or until such dog or cat has been vaccinated and had a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.<sup>1</sup> (1995 Code, § 10-207)

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<sup>1</sup>State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.

#### CHAPTER 1

### ALCOHOL<sup>2</sup>

#### SECTION

- 11-101. Drinking beer, etc., on streets, etc.  
 11-102. Minors in beer places.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1995 Code, § 11-101)

**11-102. Minors in beer places.** No person under the age of twenty-one (21) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1995 Code, § 11-102)

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<sup>1</sup>Municipal code references

- Animals and fowls: title 10.
- Fireworks and explosives: title 7.
- Residential and utilities: title 12.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

<sup>2</sup>Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

State law reference

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

**CHAPTER 2****FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

**11-201. Fortune telling, etc.** It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1995 Code, § 11-201)

## CHAPTER 3

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

**11-301. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1995 Code, § 11-401)

**11-302. Anti-noise regulations.** Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the



quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale, or display of merchandise.

(1) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1995 Code, § 11-402)

## CHAPTER 4

**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-401. Air rifles, etc.

11-402. Throwing missiles.

11-403. Weapons and firearms generally.

**11-401. Air rifles, etc.** It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1995 Code, § 11-601)

**11-402. Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1995 Code, § 11-602)

**11-403. Weapons and firearms generally.** It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties. It shall also be unlawful for any unauthorized person to discharge a firearm within the city, except for agricultural purposes. (1995 Code, § 11-603)

**CHAPTER 5****TRESPASSING AND INTERFERENCE  
WITH TRAFFIC****SECTION**

11-501. Trespassing.

11-502. Interference with traffic.

**11-501. Trespassing.** The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1995 Code, § 11-701)

**11-502. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1995 Code, § 11-703)

**CHAPTER 6****MISCELLANEOUS****SECTION**

11-601. Abandoned refrigerators, etc.

11-602. Caves, wells, cisterns, etc.

11-603. Posting notices, etc.

**11-601. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door. (1995 Code, § 11-801)

**11-602. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1995 Code, § 11-802)

**11-603. Posting notices, etc.** No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1995 Code, § 11-803)

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. FUEL GAS CODE.
5. RESIDENTIAL CODE.
6. ENERGY CONSERVATION CODE.
7. MECHANICAL CODE.
8. PROPERTY MAINTENANCE CODE.

#### CHAPTER 1

#### BUILDING CODE<sup>1</sup>

#### SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violation and penalty.

**12-101. Building code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,<sup>2</sup> 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this 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 this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

as fully as if copied herein verbatim, and is hereinafter referred to as the building code.

**12-102. Modifications.** The following sections are hereby revised to read as follows: Definitions. Whenever the words "Building Official" are used in the building code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the building code.

**12-103. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-104. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

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

**12-201. Plumbing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code<sup>2</sup>, 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code.

**12-202. Modifications.** The following sections are hereby revised to read as follows: Definitions. Whenever the words "Building Official" are used in the plumbing code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the plumbing code.

**12-203. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-204. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein

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<sup>1</sup>Municipal code references

Cross-connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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



adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 3

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

#### SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Enforcement.
- 12-305. Violation and penalty.

**12-301. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code, 2008 edition,<sup>2</sup> as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code.

**12-302. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-303. Permit required for doing electrical work.** No electrical work shall be done within this town until a permit therefor has been issued by the town. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician.

**12-304. Enforcement.** The electrical inspector shall be such person as the mayor shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable

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<sup>1</sup>Municipal code references

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code.

**12-305. Violation and penalty.** It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 4

### FUEL GAS CODE

#### SECTION

- 12-401. Title and definitions.
- 12-402. Purpose and scope.
- 12-403. Available in the recorder's office
- 12-404. Use of existing piping and appliances.
- 12-405. Bond and license.
- 12-406. Gas inspector and assistants.
- 12-407. Powers and duties of inspector.
- 12-408. Permits.
- 12-409. Inspections.
- 12-410. Certificates.
- 12-411. Fees.
- 12-412. Nonliability.
- 12-413. Violation and penalty.

**12-401. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the town. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Building official" shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the gas code.

(2) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

(3) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(4) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(5) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the mayor.

(6) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

**12-402. Purpose and scope.** The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the International Fuel Gas

Code,<sup>1</sup> 2012 edition, is hereby adopted and incorporated by reference and made a part of this chapter as if fully set forth herein and shall be referred to as the gas code.

**12-403. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the gas 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.

**12-404. Use of existing piping and appliances.** Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code.

**12-405. Bond and license.** (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the mayor a good and sufficient bond in the penal sum of ten thousand dollars (\$10,000.00), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the city recorder a nontransferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the city recorder.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in

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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.

conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees.

**12-406. Gas inspector and assistants.** To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen.

**12-407. Powers and duties of inspector.** (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration.

**12-408. Permits.** (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the mayor; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the recorder may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to

extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system.

**12-409. Inspections.** (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches (6") in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping.

**12-410. Certificates.** The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service.

**12-411. Fees.** There shall be charged a fee of three dollars (\$3.00) for each gas permit issued. This fee shall include the costs of one inspection to be made by the gas inspector. Should additional inspections be necessary, there shall be an added charge of one dollar (\$1.00) for each such inspection.

**12-412. Nonliability.** This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector.

**12-413. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable under the general penalty provision of this code, or the license of such person may be revoked, or both fine and revocation of license may be

imposed. Each day a violation is allowed to continue shall constitute a separate offense.



## CHAPTER 5

### RESIDENTIAL CODE<sup>1</sup>

#### SECTION

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

**12-501. Residential code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code, 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the residential code.

**12-502. Modifications.** The following sections are hereby revised to read as follows:

(1) Definitions. Whenever the words "Building Official" are used in the residential code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the residential code.

(2) Automatic sprinkler system standards. (a) R313.1 regarding automatic sprinkler systems in townhouses. "An automatic residential fire sprinkler system shall not be required if a two (2) hour fire resistance rated wall exists between units, if such walls do not contain plumbing and/or mechanical equipment, ducts, or vents in the common wall. If said wall does not exist as described above, then an automatic residential fire sprinkler system shall be required."

(b) Section R313.2 regarding automatic sprinkler systems for one- and two- family dwellings. "An automatic residential fire sprinkler system in one- and two- family dwellings is optional." (as amended by Ord. #16-03, June 2016)

**12-503. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential 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.

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

**12-504. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code.. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 6

### ENERGY CONSERVATION CODE<sup>1</sup>

#### SECTION

- 12 601. Energy code adopted.
- 12 602. Modifications.
- 12 603. Available in recorder's office.
- 12 604. Violation and penalty.

**12-601. Energy code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,<sup>2</sup> 2012 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the energy code.

**12-602. Modifications.** The following sections are hereby revised to read as follows: "Building Official." Whenever in the energy code these words are used, they shall refer to the person designated by the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

**12-603. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy 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.

**12-604. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 7

### MECHANICAL CODE<sup>1</sup>

#### SECTION

- 12-701. Mechanical code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.
- 12-704. Violation and penalty.

**12-701. Mechanical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,<sup>2</sup> 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim and is hereinafter referred to as the mechanical code.

**12-702. Modifications.** The following sections are hereby revised to read as follows: Definitions. Whenever the words "Building Official" are used in the mechanical code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the mechanical code.

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

**12-704. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a

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<sup>1</sup>Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 8

### PROPERTY MAINTENANCE CODE

#### SECTION

- 12-801. Property maintenance code adopted.
- 12-802. Modifications.
- 12-803. Available in recorder's office.
- 12-804. Violation and penalty.

**12-801. Property maintenance code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Property Maintenance Code,<sup>1</sup> 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the property maintenance code. (Ord. #01-11, Feb. 2011)

**12-802. Modifications.** The following sections are hereby revised to read as follows: Definitions. Whenever the words "Building Official" are used in the property maintenance code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the property maintenance code.

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

**12-804. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this

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

chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.



## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. JUNK CONTROL.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Dismantling or storing old vehicles, etc.
- 13-108. Suit authorized to collect costs.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the city manager shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1995 Code, § 13-101)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1995 Code, § 13-102)

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1995 Code, § 13-103)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(10).

**13-104. Dirty lots.** (1) Declaration of nuisance. The existence within the corporate limits of the City of Tusculum of lots and parcels of land overgrown with trees, vines, weeds, and other underbrush or burdened with accumulations of debris, trash, litter, garbage or refuse or any combination of preceding elements are hereby declared to be a nuisance.

(2) Permitting accumulations of trees, vines, grass, underbrush, debris, trash, litter, garbage, etc., unlawful. (a) It shall be unlawful for any person owning, leasing, occupying or having control of property in the city to permit or suffer trees, vines, grass, underbrush, or any other vegetation to grow and/or debris, trash, litter, garbage, or refuse to accumulate on such property, to such extent that such a nuisance is created injurious to the health, safety and welfare of the inhabitants of the city or to encourage the infestation of rates or other harmful animals. Trees, vines, grass, underbrush and/or other vegetation which have attained a height of twelve inches (12") or more shall be presumed to be detrimental to the public health and a public nuisance, which presumption may be rebutted by competent evidence.

(b) It shall also be unlawful for any owner, occupant, lessee or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, with the city to suffer or permit trees, vines, grass, weeds or any plant that is not cultivated to grow in rank profusion or otherwise, in, along, upon or across the sidewalk or street adjacent to same in the area between the property line and the curb line, or within the area ten feet (10') beyond the property line, to a height greater than twelve inches (12") on an average.

(3) Raking, piling of weeds and rubbish placement. In complying with section provisions, it shall be unlawful for any person owning, leasing, occupying or having control of property in the city to rake up, cut up or pile up said vines, grass, underbrush, or other vegetation, dead or broken tree limbs, dead trees or debris, trash, litter, garbage or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage.

(4) Removal; notice. Upon failure of any owner of property within the corporate limits of the city to cut or have cut such growth of trees, vines, grass, underbrush, and other obnoxious vegetation, or to have removed such accumulations of debris, trash, litter, garbage or refuse as described in (2) above, it shall be the duty of the city housing inspector (inspector), or such other persons as are designated by the mayor, to serve a notice on the owner, lessee, occupant or person having control of such property, ordering said person or persons to cut or have cut such obnoxious vegetation, trees, vines, grass or underbrush and/or remove or have removed such accumulations of debris, trash, litter, garbage and refuse within ten (10) days of the service of such notice; provided, however, that if the person who is the owner of record of the property

is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, then the notice required hereunder shall allow such owner of record twenty (20) days, excluding Saturday, Sunday and legal holidays, to comply with the removal of any such weeds, trees, vines, grass, underbrush, debris, trash, litter, garbage and refuse on said property. Such notice may be served:

- (a) By personally delivering the same upon the owner, lessee, occupant, or person having control of such property;
- (b) By mailing same to the last known address of such owner, lessee, occupant, or person having control of such property by certified United States mail; or,
- (c) By posting the same on the property on which conditional conditions exist.

Service of notice by any of the above methods shall be due notice within the meaning of this section, provided, however, that no owner out of possession shall be liable to the penalty imposed by § 13-104(7), or such notice mailed to him by certified mail as aforesaid.

The notice required hereunder shall state that the owner, lessee, occupant or other person having control of such property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

- (i) A brief statement of this law which shall contain the consequences of failing to remedy the noted condition;
- (ii) The person, office, address and telephone number of the department or person giving notice;
- (iii) A cost estimate for remedying the noted condition which shall be in conformity with the standards of cost in the community; and
- (iv) A place wherein the notified party may return a copy of the notice, indicating the desire for hearing.

Failure to make the request within this time shall without exception constitute a waiver of the right of a hearing.

(5) Appeal. Any owner, lessee, occupant, or person having control of such property aggrieved by the determination and order of an inspector may appeal therefrom to the Board of Health and Sanitation Enforcement consisting of five (5) persons designated by the mayor for two (2) year terms within ten (10) days from the date of service of the notice; provided, however, that if the owner of record of any such aggrieved property is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, such appeal may be taken within twenty (20) days from the date of the service of the notice. Such appeal shall be taken by filing with the board a notice of appeal stating in brief and concise form the grounds therefor. The board shall hear and determine such appeal as promptly as practicable but within ten (10) calendar days of the filing

of the appeal, except upon written application for an extension of time by the appellant, who shall recite reasons satisfactory to the board before such extension may be granted. The board shall have the power to affirm, reverse or modify the order of the inspector. The board's decision, together with the reasons therefor, shall be in writing and maintained as a public record. An owner, lessee, occupant or person having control of property who fails, refuses, or neglects to comply with the order of the inspector, if and as modified by the board shall be in violation of the provisions of this section. Appeal from the decision of the board shall be as provided by law in cases of certiorari.

(6) Noncompliance; abatement at owner's expense; nonpayment. If the owner or such other person described in § 13-104 herein shall fail to remedy such conditions within the time prescribed therein, unless an appeal is made, the inspector shall certify such failure to the city recorder who shall take such action as is necessary to remedy the conditions and abate the nuisance. If City of Tusculum employees and equipment are used in abating the nuisance, the city recorder shall determine the reasonable cost of the required inspections, recorded examinations, notifications, complaint response, and movement of employees and equipment to and from the site in establishing a base to which additional charges for equipment and employee operating time shall be added to establish the total cost to be billed to the owner. Upon failure of the owner to remit to the City of Tusculum the amount of such charge within sixty (60) days from the date of such notice, a ten (10%) percent penalty shall be added, and the total amount of the bill and the penalty shall constitute a lien upon the property for which the expenditure is made.

The city recorder shall either:

- (a) Place the cost upon the tax rolls as a lien upon the affected property, which cost shall then be collected in the same manner as the city's taxes are collected; or
- (b) Note the lien in favor of the city and against the affected property by filing a lien against the property in the Register's Office for Greene County, Tennessee, in the same manner as other liens are required to be filed.

The lien granted hereby may be enforced by suit in the Chancery Court of Greene County, Tennessee, as are other tax liens of the city.

The option granted under subsection (a) hereof shall not apply to any parcel of property upon which an "owner-occupied" residence is located.

The provisions of this section are not exclusive but are cumulative and in addition to the penalties and requirements of all other enumerated sections of title 13, it being the intent of the board of commissioners that the penalty provisions of any other enumerated section of title 13 shall be in addition to the burden placed upon the owner of the property set out in the provisions of this section.

(7) Penalties. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not less than twenty-five dollars (\$25.00) or more than fifty dollars (\$50.00) and each day's violation shall constitute a separate offense. (1995 Code, § 13-104)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1995 Code, § 13-105)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1995 Code, § 13-106)

**13-107. Dismantling or storing old vehicles, etc.** It shall be unlawful for any person, firm, or corporation to use property located in the residential districts for the purpose of dismantling and/or storing unlicensed vehicles, refrigerators, stoves, or any other junk and allowing the same to remain or accumulate on said property. (1995 Code, § 13-107)

**13-108. Suit authorized to collect costs.** Pursuant to Tennessee Code Annotated, § 6-54-113, the City of Tusculum may collect the costs assessed against an owner who has failed to abate a nuisance as described in § 13-104 by filing an action for debt in any court of competent jurisdiction. (1995 Code, § 13-108)

## CHAPTER 2

### JUNK CONTROL

#### SECTION

- 13-201. Short title.
- 13-202. Definitions.
- 13-203. General provisions.
- 13-204. Penalties.

**13-201. Short title.** This chapter shall be known as the "Junk Control Ordinance of the City of Tusculum, Tennessee." (1995 Code, § 13-201)

**13-202. Definitions.** For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this chapter:

(1) "Junk." For the purpose of this chapter, the term "junk" shall mean any motor vehicle, machinery, appliance, product, or merchandise with parts missing, or scrap metal, or other scrap materials that are damaged, deteriorated, or that are in a condition which prevents their use for the purpose for which they were intended. This definition specifically includes motor vehicles not movable under their own power, and that cannot be made so movable by minor repairs such as inflating a tire or installing fuel or battery.

(2) "Junk dealer." Any person, in any way acquiring, buying, selling, exchanging, trading, or dealing in scrap iron, brass, second hand metals, or parts of any sort.

(3) "Junk yard." Any open or uncovered land on which dilapidated automobiles, rags, old papers, boxes, barrels or other used articles defined as "junk" herein, are assembled for purposes of trade. (1995 Code, § 13-202)

**13-203. General provisions.** It shall be unlawful and a violation of this chapter for any person, firm, or corporation to keep or store "junk" as defined in § 13-202, in the City of Tusculum, unless such junk is located and stored in such a manner as to not be visible from adjacent property, including public streets. In no event shall it be lawful for any person, firm, or corporation to allow junk, as defined in this chapter, to accumulate on any property not properly prepared as a junk yard. Nothing contained in this section shall be construed to prevent persons, firms, or corporations which repair motor vehicles, appliances, etc., from accumulating unserviceable articles left with them in the normal course of their business, provided, however, such unserviceable articles shall not be visible from adjoining property. (1995 Code, § 13-203)

**13-204. Penalties.** Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less

than two dollars (\$2.00), nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (1995 Code, § 13-204)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOMES AND MOBILE HOME PARKS.
4. EROSION AND SEDIMENTATION CONTROL.

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

- 14-101. Creation and membership.  
14-102. Organization, powers, duties, etc.  
14-103. Additional powers.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of commissioners selected by the board of commissioners; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of commissioners shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1995 Code, § 14-101)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1995 Code, § 14-102)



**14-103. Additional powers.** Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1995 Code, § 14-103)

## CHAPTER 2

### ZONING ORDINANCE

#### SECTION

14-201. Land use to be governed by zoning ordinance.

14-202. Floodplain zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the City of Tusculum shall be governed by the "Zoning Ordinance, Tusculum, Tennessee."<sup>1</sup>

**14-202. Floodplain zoning ordinance.** Floodplain control for the City of Tusculum shall be governed by the "Municipal Floodplain Zoning Ordinance."<sup>2</sup>

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<sup>1</sup>The Zoning Ordinance, Tusculum, Tennessee and any amendments thereto are published as separate documents and are of record in the office of the city recorder.

<sup>2</sup>The Municipal Floodplain Zoning Ordinance and any amendments thereto are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 3

### MOBILE HOMES AND MOBILE HOME PARKS

#### SECTION

14-301. Prohibited.

14-302. Effect on existing mobile homes, etc.

14-303. Violations.

**14-301. Prohibited.** The parking, setting up, expansion of, storage, use, living in, or operation of a house trailer, mobile home, or mobile home park or parks within the corporate limits of the City of Tusculum is prohibited. (1995 Code, § 14-301)

**14-302. Effect on existing mobile homes, etc.** Those house trailers, mobile homes, or mobile home parks in existence prior to the 20th of August, 1973, shall be deemed to have been placed there legally, but the expansion of an existing house trailer or mobile home park is strictly prohibited. (1995 Code, § 14-302)

**14-303. Violations.** Any violation of any of the provisions of this chapter is declared to be a misdemeanor and punishable under the general penalty clause for this code. In addition, the City of Tusculum may remove any structure begun or erected in violation of this chapter, and the cost of the removal shall be charged against said real estate and constitute a lien thereon. (1995 Code, § 14-303)

## CHAPTER 4

### EROSION AND SEDIMENTATION CONTROLS

#### SECTION

- 14-401. Definitions.
- 14-402. General provisions.
- 14-403. Penalties.

**14-401. Definitions.** (1) "Best Management Practices (BMPs)." A schedule of activities, prohibitions of practices, design, construction and maintenance procedures, and other management practices to prevent the pollution of stormwater runoff.

(2) "Enforcement officer." The building inspector, the public works director or any other person designated by the Tusculum Board of Mayor and Commissioners to enforce the stormwater management, erosion and sedimentation control ordinance.

(3) "Erosion." The general process whereby soils are moved by flowing surface or subsurface water.

(4) "Land disturbing activity." Means any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local waters, including, but not limited to, clearing, grading, excavating, transportation and filling of land. (Ord. #08-06, July 2008)

**14-402. General provisions.** (1) It shall be unlawful for any person owning, leasing, occupying or having control of property, lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, in the city to permit erosion or sedimentation to be conveyed on to any adjoining property owners or a public right-of-way.

(2) The building inspector has the authority to require "best practices" erosion and sedimentation control measures if pollution and runoff problems are evident.

(3) Upon failure of any owner of property within the corporate limits of the city to remove all sedimentation from adjoining property owners or public rights-of-way or to have removed such sedimentation, it shall be the duty of the city building inspector, or persons as are designated by the mayor, to serve a notice on the owner, lessee, occupant or person having control of such property, ordering said person or persons to remove the sedimentation within ten (10) days of the service of such notice.

(4) Noncompliance; abatement at owner's expense; nonpayment will be treated as described in § 13-104(6). (Ord. #08-06, July 2008)

**14-403. Penalties.** Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less

than two dollars (\$2.00), nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. #08-06, July 2008)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. Tractor-trailers prohibited; weight limit for trucks.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.  
Motorized vehicles and other equipment: § 20-203.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Pedestrians in crosswalks.
- 15-125. Adoption of state traffic statutes and regulations.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1995 Code, § 15-101)

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1995 Code, § 15-102)

**15-103. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1995 Code, § 15-103)

**15-104. Tractor-trailers prohibited; weight limit for trucks.**

(1) No tractor-trailer truck, nor any category of truck with a Gross Vehicle Weight (GVW) in excess of 8,999 pounds, may be operated upon the streets of the City of Tusculum other than Shiloh Road and those streets designated as a State or Federal Highway.

(2) Exempted from the prohibitions enumerated in § 15-104(1) are the following categories of vehicles:

- (a) Customary emergency vehicles such as ambulances and fire trucks;
- (b) Vehicles designed and used primarily for the transportation of passengers such as school buses and intra-city buses;

(c) Vehicles which might otherwise violate prohibitions by being in areas from which they are restricted by § 15-104(1) but for the fact that they are proceeding in the most direct manner practical to or from the residence of the vehicle operator, or to or from a point of delivery and/or pickup and which have documentary proof in the form of bills of lading, pick-up orders or the like, within the driver's compartment.

(d) Posted exceptions to the foregoing shall take precedence over the provisions of this section. (1995 Code, § 15-104)

**15-105. Unlaned streets.** (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as closely as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1995 Code, § 15-105)

**15-106. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. (1995 Code, § 15-106)

**15-107. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1995 Code, § 15-107)

**15-108. Miscellaneous traffic-control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.



It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1995 Code, § 15-108)

**15-109. General requirements for traffic-control signs, etc.**

Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>1</sup> and shall be uniform as to type and location throughout the city. (1995 Code, § 15-109)

**15-110. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device. (1995 Code, § 15-110)

**15-111. Presumption with respect to traffic-control signs, etc.**

When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1995 Code, § 15-111)

**15-112. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1995 Code, § 15-112)

**15-113. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1995 Code, § 15-113)

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<sup>1</sup>This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

**15-114. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1995 Code, § 15-114)

**15-115. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1995 Code, § 15-115)

**15-116. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1995 Code, § 15-116)

**15-117. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1995 Code, § 15-117)

**15-118. Causing unnecessary noise.** (1) It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

(2) It shall be unlawful for truck tractors and semi-trailers operating within identified and marked places within the City of Tusculum to utilize engine compression braking devices. (1995 Code, § 15-118, as replaced by Ord. #18-01, Aug. 2018 *Ch2\_7-27-20*)

**15-119. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1995 Code, § 15-119)

**15-120. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle.

The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1995 Code, § 15-120)

**15-121. Damaging pavements.** No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1995 Code, § 15-121)

**15-122. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor scooter shall ride other than upon or astride the permanent and regular seat attached thereto nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1995 Code, § 15-122)

**15-123. Compliance with financial responsibility law required.**

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purpose of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(4) On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (1995 Code, § 15-123)

**15-124. Pedestrians in crosswalks.** 1. All vehicles must come to a complete stop at marked pedestrian street crossings not having flashing caution lights, when pedestrians are in the marked crossing areas or are waiting to use the marked crossing areas.

2. All vehicles must come to a complete stop when caution lights are flashing and/or when a pedestrian is in a crosswalk or waiting to use a crosswalk on the Linear Park Trail.

3. This section is applicable to all marked pedestrian street crossing areas located in the City of Tusculum, including the Linear Park Trail crossings.

4. A violation of this section may result in a citation to municipal court and a fine of fifty dollars (\$50.00). (1995 Code, § 15-124)

**15-125. Adoption of state traffic statutes and regulations.** All violations of state regulations for the operation of vehicles committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the City of Tusculum also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction. (1995 Code, § 15-707)

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1995 Code, § 15-201)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1995 Code, § 15-202)

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1995 Code, § 15-203)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1995 Code, § 15-204)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1995 Code, § 15-301)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1995 Code, § 15-302)

**15-303. In school zones.** Generally, pursuant to Tennessee Code Annotated, § 55-8-153 special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the board of commissioners has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1995 Code, § 15-303)

**15-304. In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1995 Code, § 15-304)



## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1995 Code, § 15-401)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1995 Code, § 15-402)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two (2) roadways. (1995 Code, § 15-403)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1995 Code, § 15-404)

**15-405. U-turns.** U-turns are prohibited. (1995 Code, § 15-405)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge of curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1995 Code, § 15-501)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1995 Code, § 15-502)

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1995 Code, § 15-503)

**15-504. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1995 Code, § 15-504)

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

**15-505. At "yield" signs.** The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1995 Code, § 15-505)

**15-506. At traffic-control signals generally.** Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution": Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(3) Steady red alone, or "Stop": Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(4) Steady red with green arrow: Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1995 Code, § 15-506)

**15-507. At flashing traffic-control signals.** Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city, it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1995 Code, § 15-507)

**15-508. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1995 Code, § 15-508)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

15-601. Generally.

15-602. Angle parking.

15-603. Occupancy of more than one space.

15-604. Where prohibited.

15-605. Loading and unloading zones.

15-606. Presumption with respect to illegal parking.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the City of Tusculum shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1995 Code, § 15-601)

**15-602. Angle parking.** On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1995 Code, § 15-602)

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1995 Code, § 15-603)

**15-604. Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;

- (3) Within an intersection or within fifteen feet (15') thereof;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance;
- (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (9) Upon any bridge;
- (10) Alongside any curb painted yellow or red by the city.
- (11) Based on safety or traffic management considerations, the public works director in coordination with the Tusculum Chief of Police or Chief of the Tusculum Volunteer Fire Department may also restrict or prohibit parking on such roads by causing a sign to be erected reflecting the designation. Any person who wishes to appeal a determination of the public works director that restricts or prohibits parking must file an appeal to the Tusculum Municipal Code to the board of mayor and commissioners within thirty (30) days of the effective date of this section (12-21-15) or the erection of the sign reflecting the parking restriction, whichever is later.
- (12) On city streets or subdivisions that would hamper an emergency vehicle, towing vehicle, sanitation vehicle or other oversized vehicles from passing or turning around.
- (13) In or within fifteen feet (15') of any cul-de-sac.
- (14) Facing the wrong direction opposite the flow of traffic on any city street including subdivisions.
- (15) No boat, trailer or temporary storage unit may be parked on city streets including subdivision. (1995 Code, § 15-604, as amended by Ord. #15-05, Dec. 2015)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1995 Code, § 15-605)

**15-606. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1995 Code, § 15-606)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of "abandoned motor vehicles."
- 15-706. Violation and penalty.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1995 Code, § 15-701)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1995 Code, § 15-702)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1995 Code, § 15-703)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be the standard charge in the City of Tusculum for towing and storing vehicles. (1995 Code, § 15-704)

**15-705. Disposal of "abandoned motor vehicles".** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1995 Code, § 15-705)

**15-706. Violation and penalty.** Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant for his arrest is issued, his fine shall be ten dollars (\$10.00).

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of ten dollars (\$10.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant is issued for his arrest, his civil penalty shall be twenty-five dollars (\$25.00).

(c) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars (\$100.00).

(d) Electronic citation fee. In addition to any fee for any traffic violation, a fee of five dollars (\$5.00) shall be collected on each citation for violation of any traffic ordinance that results in a plea of guilty or nolo contendere or a judgment of guilty, for the purpose of funding the development and operation of an electronic citation system for the city police department. (as amended by Ord. #15-01, March 2015)



## TITLE 16

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

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1995 Code, § 16-101)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1995 Code, § 16-102)

**16-103. Trees, etc., obstructing view at intersections prohibited.** It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1995 Code, § 16-103)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1995 Code, § 16-104)

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of commissioners after a finding that no hazard will be created by such banner or sign. (1995 Code, § 16-105)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1995 Code, § 16-106)

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1995 Code, § 16-107)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1995 Code, § 16-108)

**16-109. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1995 Code, § 16-109)

**16-110. Parades, etc., regulated.** It shall be unlawful for any person, club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1995 Code, § 16-110)

**16-111. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1995 Code, § 16-111)

**16-112. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1995 Code, § 16-112)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1995 Code, § 16-201)

**16-202. Applications.** Applications for such permits shall be made to the recorder or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1995 Code, § 16-202)

**16-203. Fee.** The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1995 Code, § 16-203)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city manager may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1995 Code, § 16-204)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1995 Code, § 16+-205)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the City of Tusculum shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, but shall be paid for promptly by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder

shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others who made the excavation or tunnel. (1995 Code, § 16-206)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident, and for property damages not less than twenty-five thousand dollars (\$25,000.00) for any one (1) accident, and a seventy-five thousand dollars (\$75,000.00) aggregate. (1995 Code, § 16-207)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1995 Code, § 16-208)

**16-209. Supervision.** The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1995 Code, § 16-209)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in

width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1995 Code, § 16-210)

## TITLE 17

### REFUSE AND TRASH DISPOSAL<sup>1</sup>

#### CHAPTER

#### 1. REFUSE.

#### CHAPTER 1

#### REFUSE

#### SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Deleted.
- 17-107. Collection vehicles.
- 17-108. Disposal.

**17-101. Refuse defined.** Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined, except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1995 Code, § 17-101)

**17-102. Premises to be kept clean.** All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1995 Code, § 17-102)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within the City of Tusculum where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which are handled mechanically. Furthermore, except for containers which are handled mechanically, the combined weight of any refuse container and its contents shall

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.



not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two feet (2') thick before being deposited for collection. (1995 Code, § 17-103, as amended by Ord. #15-06, Dec. 2015)

**17-104. Location of containers.** Where alleys are used by the refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1995 Code, § 17-104, as amended by Ord. #15-06, Dec. 2015)

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1995 Code, § 17-105)

**17-106. Deleted.** (1995 Code, § 17-106, as deleted by Ord. #15-06, Dec. 2015)

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1995 Code, § 17-107)

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at a site or sites designated for proper refuse disposal is expressly prohibited. (1995 Code, § 17-108, as replaced by Ord. #15-06, Dec. 2015)

## TITLE 18

### WATER AND SEWERS<sup>1</sup>

#### CHAPTER

1. SEWAGE AND HUMAN EXCRETA DISPOSAL.
2. GENERAL WASTEWATER REGULATIONS.

#### CHAPTER 1

### SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>2</sup>

#### SECTION

- 18-101. Definitions.
- 18-102. Places required to have sanitary disposal methods.
- 18-103. When a connection to the public sewer is required.
- 18-104. When a septic tank shall be used.
- 18-105. Registration and records of septic tank cleaners, etc.
- 18-106. Use of pit privy or other method of disposal.
- 18-107. Approval and permit required for septic tanks, privies, etc.
- 18-108. Owner to provide disposal facilities.
- 18-109. Occupant to maintain disposal facilities.
- 18-110. Only specified methods of disposal to be used.
- 18-111. Discharge into watercourses restricted.
- 18-112. Pollution of ground water prohibited.
- 18-113. Enforcement of chapter.
- 18-114. Carnivals, circuses, etc.
- 18-115. Violations.

**18-101. Definitions.** The following definitions shall apply in the interpretation of this chapter:

- (1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred feet (200') of any boundary of said property measured along the shortest available right-of-way.

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<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12  
Refuse disposal: title 17

<sup>2</sup>Municipal code reference

Plumbing code: title 12, chapter 2.

(2) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than seven hundred fifty (750) gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health and Environment as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five feet (5'). The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(3) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(4) "Human excreta." The bowel and kidney discharges of human beings.

(5) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1995 Code, § 18-101)

**18-102. Places required to have sanitary disposal methods.** Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1995 Code, § 18-102)

**18-103. When a connection to the public sewer is required.** Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public

sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1995 Code, § 18-103)

**18-104. When a septic tank shall be used.** Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health and environment. (1995 Code, § 18-104)

**18-105. Registration and records of septic tank cleaners, etc.** Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1995 Code, § 18-105)

**18-106. Use of pit privy or other method of disposal.** Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1995 Code, § 18-106)

**18-107. Approval and permit required for septic tanks, privies, etc.** Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1995 Code, § 18-107)

**18-108. Owner to provide disposal facilities.** It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-102, or the agent of the owner to provide such facilities. (1995 Code, § 18-108)

**18-109. Occupant to maintain disposal facilities.** It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog, or otherwise interfere

with the operation of such facilities shall be deposited therein. (1995 Code, § 18-109)

**18-110. Only specified methods of disposal to be used.** No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1995 Code, § 18-110)

**18-111. Discharge into watercourses restricted.** No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1995 Code, § 18-111)

**18-112. Pollution of ground water prohibited.** No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening, either natural or artificial, in any formation which may permit the pollution of ground water. (1995 Code, § 18-112)

**18-113. Enforcement of chapter.** It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health, such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1995 Code, § 18-113)

**18-114. Carnivals, circuses, etc.** Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits, such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1995 Code, § 18-114)

**18-115. Violations.** Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the

provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1995 Code, § 18-115)

## CHAPTER 2

### GENERAL WASTEWATER REGULATIONS<sup>1</sup>

#### SECTION

- 18-201. Purpose and policy.
- 18-202. Administrative.
- 18-203. Definitions.
- 18-204. Abbreviations.
- 18-205. Proper waste disposal required.
- 18-206. Private domestic wastewater disposal.
- 18-207. Connection to public sewers.
- 18-208. Septic tank effluent pump.
- 18-209. Septic tank design capacity.
- 18-210. Design of septic tanks.
- 18-211. Discharge regulations.
- 18-212. Enforcement and abatement.
- 18-213. City's rights of revision.
- 18-214. Fees and billing.
- 18-215. Validity.

**18-201. Purpose and policy.** This chapter sets forth uniform requirements for users of the City of Tusculum, Tennessee, wastewater treatment system and enables the City to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To protect wastewater system treatment and collection personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (3) To control discharges and prevent pollutants from entering into the public sewage collection system that may interfere with wastewater treatment and collection systems;
- (4) To define the criteria for design, construction, ownership, maintenance, and operation of residential and commercial sewer connections; and
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the system.

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<sup>1</sup>Appendix B contains: grease trap sizing formula, STEP system application form, FOG application and implementation plan and the enforcement response plan.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Tusculum must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

Nothing herein shall, however, require certain buildings existing on April 1, 2014, located on properties along and adjacent to East Andrew Johnson Highway within the city limits of Tusculum, Tennessee, whether residential or commercial, to connect to the initial wastewater collection system unless such property has been cited by TDEC for a failing private disposal system. All buildings constructed on said properties after April 1, 2014, will be required to connect to the system according to the conditions set forth herein.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the city's wastewater collection system. (Ord. #14-01, June 2014)

**18-202. Administrative.** Except as otherwise provided herein, the local administrative officer of the city shall administer, implement, and enforce the provisions of this chapter. (Ord. #14-01, June 2014)

**18-203. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator of the United States Environmental Protection Agency.

(2) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, *et seq.*

(3) "Approval authority." the Tennessee Department of Environment and Conservation, Division of Water Resources.

(4) "Authorized or duly authorized representative of industrial user:

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and



accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a) through (c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Centigrade (20° C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(6) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(7) "City." The Board of Mayor and Commissioners, City of Tusculum, Tennessee.

(8) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(9) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's State Operating Permit (SOP) for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(10) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(11) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(12) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(13) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(14) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(15) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(16) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(17) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(18) "Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(19) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(20) "Grease interceptor." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or less and is generally located inside the building.

(21) "Grease trap." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or more and is located outside the building.

(22) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

(23) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(24) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(25) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts, treatment processes or operations, or sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(26) "Local administrative officer." The chief administrative officer of the local hearing authority.

(27) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(28) "Local hearing authority." The City of Tusculum Board of Mayor and Commissioner or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-212.

(29) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

(30) "Person." Any individual, partnership, co partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(31) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(32) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(33) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(34) "Prohibited discharge standards" or "prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-211 of this chapter.

(35) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(36) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(37) "Shall" is mandatory; "may" is permissive.

(38) "State." The State of Tennessee.

(39) "Storm sewer" or "storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(40) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(41) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment

works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(42) "Surcharge." An additional fee assessed to a user who discharges compatible pollutants at concentrations above the established surcharge limits.

(43) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(44) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(45) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(46) "Wastewater." The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, and institutions, whether treated or untreated, which is contributed into or permitted to enter the wastewater collection system.

(47) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof. (Ord. #14-01, June 2014)

**18-204. Abbreviations.** The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD	Biochemical Oxygen Demand
BMP	Best Management Practice
BMR	Baseline Monitoring Report
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	Environmental Protection Agency
TDEC	Tennessee Department of Environment and Conservation
gpd	gallons--per day
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
RCRA	Resource Conservation and Recovery Act
TSS	Total Suspended Solids
U.S.C.	United States Code
gpm	gallons per minute (Ord. #14-01, June 2014)

**18-205. Private waste disposal required.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner

on public or private property within the service area of the city, any human excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days to connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property. Nothing herein shall, however, require current buildings existing on April 1, 2014, located on properties along and adjacent to East Andrew Johnson Highway within the city limits of Tusculum, Tennessee, whether residential or commercial, to connect to the initial wastewater collection system unless such property has been cited by TDEC for a failing private disposal system. All buildings constructed on said properties after April 1, 2014, will be required to connect to the system according to the conditions set forth herein.

(5) Where a public sanitary sewer is not available under the provisions of subsection (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-206 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (Ord. #14-01, June 2014)

**18-206. Private domestic wastewater disposal. (1) Availability.**

(a) Where a public sanitary sewer is not available under the provisions of § 18-205(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the

city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days. Nothing herein shall, however, require current buildings existing on April 1, 2014, located on properties along and adjacent to East Andrew Johnson Highway within the city limits of Tusculum, Tennessee, whether residential or commercial, to connect to the initial wastewater collection system unless such property has been cited by TDEC for a failing private disposal system. All buildings constructed on said properties after April 1, 2014, will be required to connect to the system according to the conditions set forth herein.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city or county health department. (Ord. #14-01, June 2014)

**18-207. Connection to public sewers.** (1) Sewer connection required. Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which segment there is a sanitary sewer which is adjacent to the property line of the parcel containing the building shall be considered as being served by the city's sanitary sewer system. The city shall make any decision as to the availability of sewer service to a premise. All premises served by the city sanitary sewer are subject to sewer user charges as described in § 18-216, whether connected to the city's sewer or not.

All new buildings hereafter constructed on property which is served by the city's sewer system shall not be occupied until the connection has been made. Septic tanks shall not be used for new buildings where sanitary sewers are available.

(2) Unconnected sewer service lines prohibited where connection is available. Except for discharge to a properly functioning septic tank system approved by the county health department or discharges permitted by a National Pollutant Discharge Elimination System permit (hereinafter NPDES) issued by the TDEC, the discharge of sewage into places other than the city's sewer system is prohibited. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the city's sewer system shall cease to use any other method for the disposal of sewage except as approved for direct discharge by the TDEC or by discharge to a properly functioning and approved septic tank system.

(3) Application for service. (a) There shall be two (2) classifications of service: residential and commercial and other nonresidential establishments. In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city at the time of application. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(c) Multi-user private sewer systems. The owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes, and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to the city's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter, including liability for the damage or

injury caused to the city's system as a result of any discharge through the private system.

(4) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective date of this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(5) Physical connection a public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city. The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed. The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may not be re-used to connect to the new septic tank. The property owner shall install a new sewer line from the building to septic tank meeting the criteria set forth herein.

(e) Building sewers shall conform to the following requirements:



(i) Definition. A standard sanitary sewer service line is a four inch or six inch (4" or 6") pipe extending from the building to Septic Tank Effluent Pumping system (STEP) (see § 18-208 for STEP information).

(ii) The construction and installation of all building sewers shall be in accordance with the requirements of the latest edition of the plumbing code published by the International Code Council. The city may establish additional requirements or standards for materials and methods of installation in accordance with good engineering practice.

Four-inch (4") building sewers shall be laid on a grade of at least one percent (1%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second. The slope and alignment of all building sewers shall be neat and regular and shall be bedded in material suitable to achieve proper slope and alignment. A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another as an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Building sewers shall be constructed only one (1) of the following approved materials:

(A) Cast iron soil pipe using rubber compression joints of approved type;

(B) SDR-35 PVC pipe with push-on, gasketed joints.

(C) Similar materials of equal or superior quality following city approval. Under no circumstances will cement mortar joints be acceptable.

(iii) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4").

Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(iv) "Building sewers" shall be connected to a baffled septic tank per requirements of § 18-208. A forcemain sewer service line shall be installed from the septic tank to the public sewer main. Connections of forcemain service line to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(v) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(vi) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the

public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(6) Maintenance of building sewers. (a) Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer between the building and septic tank. Owners failing to maintain or repair building sewers or who allow stormwater or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of sewer service.

The city shall be responsible for maintenance of the septic tank, pumps, controls, alarms, and the service force main from the septic tank to the public force main sewer after the initial approved installation is paid for by the property owner.

(b) The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with.

(c) The city will service the septic tank, pump, alarm, and controls at the septic tank effluent pumping system. The property owner shall allow the city full access to maintain and service the equipment.

(7) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works, located at:

<http://www.state.tn.us/environment/wpc/publications/>.

Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (Ord. #14-01, June 2014)

**18-208. Septic tank effluent pump.** Septic Tank Effluent Pump (STEP) systems shall be installed on owner's property by all users connecting to the city's sewer system.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction, structurally sound, and must be approved by the city. Tanks shall be owned by the property owner; tanks shall be maintained by the city.

- (b) Pumps must be approved and be maintained by the city.
- (c) Approved pump models include A.Y. McDonald 22000 and 24000 Series Pumps and Orenco PF Series Pumps.
- (d) Residential users may use a simplex pump. Commercial users shall be required to have a duplex pumping system.
- (e) Alarms shall be provided for low water level, high water level, and pump failure.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. The effluent pump shall be located within a screened pump vault. The vault, at a minimum, shall be fitted with one-eighth inch (1/8") mesh polyethylene screen and a four inch (4") diameter PVC (or equivalent) flow inducer for high-head pump. The pump chamber shall include float switches that turn the pump on and off and activate high and low level alarms. Residential effluent service lines connecting the STEP system to the sewer forcemain shall be of one inch (1") PolyFlex (STR-9 Class 200) pipe or approved equal. Commercial connections shall be at a minimum of two inch (2") PolyFlex (STR-9 Class 200) pipe or approved equal and subject to approval by the city. Installation shall follow design criteria for STEP system as provided by the superintendent and TDEC Design Criteria for Sewage Works.

The location of septic tanks shall be selected in accordance with the following minimum distances in feet, bearing in mind that local conditions may require increased distances of separation.

	<u>Septic Tank (ft)</u>
Water supply	50
Dwellings	5
Property lines	10
*Gullies, ravines, dry stream beds, natural drainage ways, sinkholes, streams, and cut banks	15
Water lines	10

\*These distances may increase or decrease as soil conditions so warrant as determined by the commissioner after a special investigation by an approved soil consultant.

(3) Costs. STEP equipment for new construction shall be purchased and installed at the user's expense according to the specifications of the city. Connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. The city shall maintain ownership of the pumps, alarms, controls, and force main service line. The property owner

shall maintain ownership of the septic tank. Property owners shall pay the city (through user fees) for operation and maintenance of the STEP system. Access by the city to the STEP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction. The city may charge the property owner for nuisance maintenance activities. The city will bill the property owner, based on the actual cost, for maintenance activities resulting from the property owner's misuse of the system. For example, activities may include frequent removal of solids, fats, oils, or grease.

(5) Existing septic tanks. Existing septic tanks shall be removed or abandoned in place. Standard method of abandonment. The tank subject to abandonment shall be pumped, and its contents disposed, in accordance with local, state, and federal requirements, collapsed, and the remaining hole back-filled and compacted with coarse gravel to within twelve inches (12") of ground surface. The remaining space is to be filled with topsoil to the surrounding grade and appropriately crowned to allow for soil settling.

(6) Use of STEP systems. (a) Home or business owners shall follow the STEP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power. Namely, the property owner shall provide a 220V power circuit run from a dedicated 30Amp, double pole breaker to a disconnect located on the building wall immediately adjacent to the tank site. The circuit must consist of 10/3 wire with a ground. The disconnect shall be accessible at all times to the city and authorized maintenance staff.

(c) Home or business owners shall be responsible for maintenance and installing sewer lines from the building to the STEP tank.

(d) Maintenance of the STEP tank, pumps, controls, and alarms shall be as provided in § 18-208(4).

(e) Prohibited uses of the STEP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(7) Tank cleaning. Solids removal from the septic tank shall be provided by the city. Septic tanks should be pumped when sludge and scum accumulations exceed thirty percent (30%) of the tank volume or are encroaching on the inlet and outlet baffle entrances. Periodic pumping of the septic tanks is recommended to ensure proper system performance and reduce the risk of hydraulic failure. If systems are not inspected, septic tanks should

be pumped every three (3) to five (5) years depending on the size of the tank, the number of building occupants, and household appliances and habits. Commercial systems should be inspected and/or pumped more frequently, typically annually.

(8) Additional charges. The city shall be responsible for maintenance of the STEP equipment, and shall charge the user a monthly fee to cover the cost of equipment maintenance and replacement. Repeat service calls for similar problems shall be billed to the property owner or business at a rate of no more than the actual cost of the service call. (Ord. #14-01, June 2014)

**18-209. Septic tank capacity.** (1) Residential septic tank capacity. For residences, the effective liquid capacity of the septic tank shall be a minimum of one thousand five-hundred (1,500) gallons. The minimum one thousand five-hundred (1,500) gallon liquid capacity requirement will be implemented and enforced at the discretion of the city.

(2) Commercial septic tank capacity. For facilities other than residences, the net volume or effective liquid capacity of the septic tank shall be determined by accounting for a minimum hydraulic retention time of three (3) days in order to allow for adequate settling of solids. The minimum effective liquid capacity of the septic tank shall be one thousand five-hundred (1,500) gallons. In some instances (restaurants, grocery stores, etc.), a grease trap will be required in addition to the septic tank. Additional tank volume may be necessary where unusual waste water characteristics are expected from a commercial facility. The minimum three (3) day hydraulic retention time will be implemented and enforced at the discretion of the city.

(Commercial users may be required to use two (2) tanks operating in series to achieve volumetric requirements. The first tank shall have an effluent filter screen installed between the effluent pipe of the first tank and the influent pipe of the second. The filter should be inspected and cleaned routinely.)

(3) Effective liquid capacity. The actual effective liquid capacity of a tank to be utilized as a septic tank shall be considered the volume of liquid capacity that occupies the interior space of said tank to the level of the invert of the outlet port of the tank. Therefore, the air-space that lies above the actual surface of the liquid level of a tank shall not be considered as part of a septic tank's effective liquid capacity. (Ord. #14-01, June 2014)

**18-210. Design of septic tanks.** (1) Overview of septic tank design. A septic tank shall be watertight, structurally sound, and not subject to excessive corrosion or decay. Septic tanks shall be of two (2) compartment design. The inlet compartment of a two (2) compartment tanks shall be between two-thirds (2/3) and three-fourths (3/4) of the total tank capacity.

(2) Minimum standards of design and construction of precast reinforced concrete septic tanks. (a) Septic tanks shall be precast concrete

and provided by an NCPA certified plant in good standing with the State of Tennessee.

(b) Tank shall meet watertight requirements and testing per ASTM C1227 using the hydrostatic test. Tanks failing the test will not be accepted for connection to the city's system. Proof of testing shall be required to be submitted to the city.

(c) Tanks shall be structurally sound, with steel rebar reinforcement and five thousand (5,000) psi strength (twenty-eight (28) day) concrete. Tanks shall be designed and sealed by a Tennessee licensed professional engineer.

(d) Sealant used in the seam of the tank shall be mastic sealant meeting or exceeding ASTM C990.

(e) Pipe penetrations (inlet and outlet) shall be fitted with seals that meet or exceed ASTM C923.

(f) Inlet tees shall be required and shall conform to ASTM 1785 standards. Inlet tees shall be installed with a rubber boot poured into the tank wall, and shall be secured using #88 stainless steel bands.

(g) A twenty-four inch (24") diameter access opening shall be installed above the inlet pipe and effluent pump. Water-tight PRTA adaptors shall be cast-in-place or fastened to the top of the tank with stainless steel concrete anchors and a roll of butyl tape. The adaptor shall be sealed with clear all-purpose Lexel silicone. A watertight Ultra-corr/Ultra rib riser shall be connected to the adaptor and extended to the finished ground elevation. The riser shall be sealed with all-purpose Lexel silicone. The riser shall be equipped with a twenty-four inch (24") diameter water tight lid. The lid shall be structural foam and fastened to the riser with four (4) 12x2 stainless steel self-tapping, #3 square drive mounting screws.

(h) Partition wall (or baffle) shall be poured monolithically and shall be structurally sound.

(i) Air space shall be a minimum of eight inches (8") above top of the inlet pipe.

(j) Tank labeling. Precast septic tanks shall be provided with a suitable legend, cast or etched in the wall at the outlet end and within six inches (6") of the top of the tank, identifying the manufacturer by name and address or registered trademark and indicating the liquid capacity of the tank in gallons.

(3) Cast-in-place provisions. Not allowed unless explicitly approved by the city in writing. (Ord. #14-01, June 2014)

**18-211. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the Wastewater Treatment Plant (WWTP) / Publicly Owned

Treatment Works (POTW). These general prohibitions apply to all such users of the sewer system. Violations of these general and specific prohibitions or the provisions of this section may result in surcharges, discontinuance of sewer service, and other fines and provisions of § 18-212. A user may not contribute the following substances to any STEP system or the wastewater collection system as a whole:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater collection system or to the operation of the wastewater collection system. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60° C) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the wastewater collection system.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one half inch (1/2") in any dimension, waste from animal slaughter, human hair, pet hair, non-dissolvable sanitary wipes, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the wastewater collection system.

(e) Any wastewater having a temperature which will inhibit biological activity in the wastewater collection system resulting in interference, but in no case wastewater with a temperature at the introduction into the wastewater collection system which exceeds forty degrees Centigrade (40° C) (one hundred four degrees Fahrenheit (104° F)) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.



(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater collection system in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater collection system operators, or animals, create a toxic effect in the receiving waters of the STEP system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307 of the Act.

(i) Any waters containing, any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(j) Any wastewater which causes a hazard to human life or creates a public nuisance.

(k) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, septic tanks and pumping equipment.

(l) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming in the STEP system or pass through of foam.

(m) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(n) Medical wastes, except as specifically authorized by (the superintendent) in an individual wastewater discharge permit.

(2) Fats, oils, and grease (FOG). FOG traps and interceptors, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such traps and interceptors shall not be required for single family residences, but may be required on multiple family residences and commercial facilities. All traps and interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(a) Grease trap and interceptor design criteria. Grease traps and interceptors must be designed to satisfy three (3) basic criteria in order to ensure effective separation. These include:

(i) Time. The separation device must provide sufficient retention time for emulsified grease and oil to separate and float to the surface of the chamber.

(ii) Temperature. The separation device must provide adequate volume to allow the wastewater to cool sufficiently for emulsified grease to separate.

(iii) Turbulence. Turbulence through the device must be controlled so that grease and solids are kept in suspension in the wastewater. Turbulence must be controlled, especially during high discharge rates associated with draining a multiple fixtures simultaneously.

(iv) Performance. In addition, the grease trap and/or interceptor must provide sufficient storage capacity for accumulated grease and solids between cleanings. The grease trap/interceptor shall be designed to ensure that the effluent does not have a FOG concentration in excess of one hundred (100) mg/L.

(b) Grease interceptors. Grease interceptors may be used if the commercial facility's combined flow rate of FOG is less than fifty (50) gpm and grease storage capacity is less than one hundred (100) pounds. Grease interceptors shall be approved by the city and cleaned and maintained by the user. In all instances where a grease interceptor is required, it shall be installed upstream of the septic tank. Commercial dishwashers shall not be connected to a grease interceptor, and discharge from dishwasher shall bypass to the septic tank.

(c) Grease traps. Kitchen drain lines from institutions, hotels, restaurants, schools, lunchrooms, and other establishments from which flow a relatively high combined flow rate of FOG (typically fifty (50) gpm or greater) shall be discharged to a grease trap if a grease interceptor has been determined inadequate. FOG shall be discharged into a grease trap before being discharged into a septic tank. Grease trap effluent shall also be treated in the septic tank before being discharged into the wastewater collection system. Grease traps shall be constructed to insure both the inlet and outlet are properly submerged to trap grease and that the distance between inlet and outlet is sufficient to allow separation of the grease so that grease solids will not escape through the outlet. Grease traps shall be vented so they will not become air bound. A cover shall be provided and located so as to be conveniently accessible for servicing and cleaning. The cover shall be designed to prevent odor and exclude insects and vermin. Proper sizing of the grease trap should be based on efficiency ratings and flow capacities, which are determined by the number and

kinds of sinks or fixtures discharging into the trap (See Appendix B<sup>1</sup> for details). A detailed list of grease trap design features includes the following:

(i) Construction. Traps shall be constructed of durable, watertight materials, with sufficient structural load bearing capacity for use in traffic areas. Grease traps should be designed with at least two (2) compartments separated by a full width baffle. The baffle should be located approximately two-thirds ( $2/3$ ) to three-fourths ( $3/4$ ) from the influent wall and extend above the liquid level. No trap filters are to be used due to clogging concerns.

(ii) Access. Access for cleaning should be provided by two (2) twenty-four inch (24") diameter manholes terminating one inch (1") above finished grade with sealed cast iron frames and cover. Manholes should be located above the inlet and outlet tees.

(iv) Inlets and outlets. Sanitary tees should be installed vertically on the inlet and outlet pipes. Tees should be the same size as the inlet and outlet piping, but not less than four inches (4") in diameter. A pipe nipple with open top should be installed in the top of the tee and should terminate six inches (6") below the roof of the trap. The inlet tee should have a vertical pipe drop extending twelve inches (12") below the water surface. The outlet tee should have a vertical pipe drop extending to one-third ( $1/3$ ) of liquid level capacity from the floor. The elevation of the inlet pipe should be approximately two and one half inches ( $2\ 1/2$ ") above the elevation of the outlet pipe.

(v) Location. Grease traps should be located just outside the restaurant or kitchen in an easily accessible location out of the way of normal traffic. However, the trap should not be located in flood prone areas. Outdoor installation is preferred due to accessibility. However, indoor installation may be approved by the city in special circumstances.

In all instances where a grease trap is required, it shall be installed upstream of the septic tank.

(vi) Prohibited discharges. Sanitary wastewater (blackwater) shall connect to the drain line downstream of the grease trap. Garbage grinders are not allowed. Commercial dish washers shall not be connected to the grease trap and shall directly connect to the septic tank.

(vii) Sizing. Grease traps should be designed based on flow rate and storage capacity, modified by a loading factor that takes into account the type or location of the commercial facility. (See

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<sup>1</sup>Appendix B is included in this municipal code in its entirety.

Appendix B for examples of grease trap sizing formulas.) The minimum size for a single grease trap shall be one thousand (1,000) gallons, and the minimum hydraulic detention time shall be four (4) hours at design flow. The owner may consider the use of multiple smaller capacity grease traps in series rather than a single large trap as long as the combined total capacity of the traps is one thousand (1,000) gallons or more.

(viii) **Cleaning.** Grease traps must be inspected and cleaned at regularly scheduled intervals as dictated by on-site experience, but generally once every three (3) months. Solids and oil removal from the grease trap shall be the responsibility of the user, and shall be disposed of per local, state, and federal requirements. If cleaning is found to be necessary within less than a one (1) month period, then the grease trap may be determined to be undersized.

(d) **FOG application and implementation plan.** (i) **New construction and renovation.** Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) **Existing structures.** All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) **Implementation of plan.** After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan as determined by the local hearing authority;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment system. If, in the opinion of the superintendent, the user continues to impact the collection system and treatment system, additional measures may be required. The FOG application and implementation plan can be found in Appendix B.

(3) **Sand and soil interceptors.** At the discretion of the superintendent, all car washes, truck washes, garages, service stations and other sources of sand and soil shall install effective sand and soil interceptors. These interceptors

shall be sized to effectively remove sand and soil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(4) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(5) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(6) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(7) The superintendent may use wastewater discharge permits to regulate the discharge of fat, oil and grease. (Ord. #14-01, June 2014)

**18-212. Enforcement and abatement.** (1) General. Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated, or the city may seek further remedies as needed to protect the collection system, treatment plant, effluent disposal system, and public health. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(a) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(b) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may disconnect sewer service.

(c) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(d) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system.

(2) Complaints and orders. (a) Should the city have reason to believe that a violation of any provision of this chapter or orders of the city commission issued pursuant thereto has occurred, is occurring, or is about to occur, the city may order that a written complaint be served upon the alleged violator(s).

(ii) The complaint shall specify the provision(s) of the order alleged to be violated or about to be violated, the facts alleged to constitute a violation thereof, and may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the city.

(c) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the city commissioner as provided in § 18-212(5), no later than thirty (30) days after the date such order is served; provided, however, that the city commission may review such final order on the same grounds upon which a court of the state may review default judgments.

(3) Additional remedies. In addition to other remedies provided herein, the city may issue a show-cause notice to any user who appears to be violating any provision of this chapter to show cause why sewer service should not be discontinued. The notice shall include the nature of the violation with sufficient specificity as to the character of the violation and the date(s) which such violation(s) occurred to enable the user to prepare a defense. Such notice shall be mailed to the user by certified mail, return receipt requested, or shall be personally delivered to the user at least twenty (20) days prior to the proposed action, except in the event of an emergency. At the show-cause hearing, the user may present any defense to such charges, either in person or through submission of written or documentary proof. Following the hearing or opportunity for a hearing, the city may at the city's discretion order termination of sewer service if satisfied from all available proof that the violation was willful and the termination is necessary to abate the offending condition or to prevent

future violations. The city may terminate service for a period not to exceed one (1) year for a willful violation and may terminate service indefinitely to abate offending conditions or prevent future violations subject to the corrections of such conditions or violations by the user. Any violation of provisions of this chapter that is not corrected or abated following a notice and opportunity for a hearing shall be grounds for termination of sewer service.

(4) Emergency termination of service. (a) When the city finds that an emergency exists in which immediate action is required to protect public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or the facilities of the WWTP, the city may, without prior notice, issue an order reciting the existence of such an emergency and requiring that certain action(s) be taken as the city deems necessary to meet the emergency.

(b) If the violator fails to respond or is unable to respond to the city's order, the city may take such emergency action as deemed necessary or contract with a qualified person(s) to carry out the emergency measures. The city may assess the person(s) responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(c) In the event such emergency action adversely affects the user, the city shall provide the user an opportunity for a hearing as soon as practicable thereafter to consider restoration of service upon abatement of the condition or other reasonable conditions. Following the hearing, the city may take any such authorized action should the proof warrant such action.

(5) Hearings. (a) Any hearing or re-hearing brought before the city shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to his section, the city shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition unless the city and the petitioner agree to a postponement.

(ii) The hearing provided may be conducted by the city commission at a regular or special meeting. A quorum of the city commissioners must be present at the regular or special meeting in order to conduct the hearing.

(iii) A verbatim record of the rehearings of the hearings shall be made and filed with the city commission in conjunction with the findings of fact and conclusions of law made pursuant to subsection (vi) of this section. The transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the city to cover the costs of preparation.

(iv) In connection with the hearing, the chairman shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Greene County shall have jurisdiction upon the application of the city to issue an order requiring such person to appear and testify or produce evidence as the case may require. Failure to obey such order of the court is punishable by the court as contempt.

(v) Any member of the city commission may administer oaths and examine witnesses.

(vi) On the basis of the evidence produced at the hearing, the city commission shall make findings of fact and conclusion of law and enter such decisions and orders as in its opinion will best further the purposes sewer system and shall give written notice to such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chairman.

(vii) The decision of the city commission shall become final and binding on all parties unless appealed to the courts as provided in subsection (b).

(viii) Any person to whom an emergency order is directed shall comply therewith immediately but on petition to the city commission shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the city commission.

(ix) Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would inquire a ruling by the court under said rules.

(x) The party at the hearing bearing the affirmative burden of proof shall first call witnesses, which shall be followed by witnesses called by other party. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing subject to approval of the city commission. The city commission, the city, his representative, and all parties shall have the right to



examine any witness. The city commission shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(xi) Any person aggrieved by any order or determination of the city where an appeal is not otherwise provided by this section may appeal said order or determination to be reviewed by the city commission under the provisions of this section. A written notice of appeal shall be filed with the city and the chairman, and said notice shall set forth with particularity the action or inaction of the city complained of and the relief being sought by the person filing said appeal. A special meeting of the city commission may be called by the chairman upon the filing of such appeal, and the city commission may, at members' discretion, suspend the operation of the order or determination of the city on which is based the appeal until such time as the city commission has acted upon the appeal.

(b) An appeal may be taken from any final order or other final determination of the city or city commission by any party who is or may be adversely affected thereby to the chancery court pursuant to the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, within sixty (60) days from the date such order or determination is made.

(6) Civil penalty. (a) Any person who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

(i) Violates any effluent standard or limitation imposed by this chapter.

(ii) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement of this chapter.

(iii) Fails to pay user or cost recovery charges imposed by the city.

(iv) Violates a final determination or order of the city commission.

(b) Any civil penalty shall be assessed in the following manner:

(i) The city may issue an assessment against any person or user responsible for the violation.

(ii) Any person or user against whom an assessment has been issued may secure a review of such assessment by filing with the city a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter involved before the city commission. If a petition for review of the assessment is not filed within thirty (30) days of the date the assessment is served, the violator shall be deemed to have consented to the assessment, and it shall become final.

(iii) When any assessment becomes final because of a person's failure to appeal the city's assessment, the city may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.

(iv) In assessing the civil penalty, the city may consider the following factors:

(A) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.

(B) Damages to the city, including compensation for the damage or destruction of the facilities of the WWTP/POTW, which also includes any penalties, costs, and attorneys' fees incurred by the city as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages.

(C) Cause of the discharge or violation.

(D) The severity of the discharge and its effect upon the facilities of the WWTP and upon the quality and quantity of the effluent.

(E) Effectiveness of action taken by the violator to cease the violation.

(F) The technical and economic reasonableness of reducing or eliminating the discharge.

(G) The economic benefit gained by the violator.

(v) The city may institute proceedings for assessment in the name of the City of Tusculum in the chancery court of the county in which all or part of the pollution of violation occurred.

(vi) The city commission may establish by regulation a schedule of the amount of civil penalty which can be assessed by the city for certain specific violations or categories of violations.

(vii) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner of environment and conservation for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). Provided, however, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(7) Judicial proceedings and relief. The city may initiate proceedings in the chancery or circuit court of the county in which the activities occurred against any person or user who is alleged to have violated or is about to violate the wastewater regulations ordinance, Tennessee Code Annotated, §§ 69-3-123

through 69-3-129, § 18-212(6), or orders of the city commission. In such action, the city may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(8) **Assessment of damages to user.** When the discharge of waste or any other act or omission cause an obstruction, damage, or any other impairment to the city's facilities which causes an expense or damages of whatever character or nature to the city, the city shall assess the expenses and damages incurred by the city to clear the obstruction, repair damage to the facility, and otherwise rectify any impairment, and bill the person responsible for the damage for reimbursement of all expenses and damages suffered by the city. If the person responsible refuses to pay, then the city shall forward a copy of the statement and documentation of all expenses to the city's attorney who shall be authorized to take appropriate legal action. (Ord. #14-01, June 2014)

**18-213. City's right of revision.** The city reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the WWTP consistent with the purpose of this chapter. (Ord. #14-01, June 2014)

**18-214. Fees and billing.** (1) **Purpose.** It is the purpose of this section to provide for the equitable recovery of costs from users of the city's wastewater treatment and collection system including costs of operation, maintenance, administration, bond service costs, capital improvements, reserve funds, and equitable cost recovery of principal and interest payments for loan funds.

(2) **Types of charges and fees.** The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for permit applications for discharge;
- (c) Sewer use charges;
- (d) Other fees as the city may deem necessary.

(3) **Inspection fee and tapping fee.** An inspection fee and tapping fee for a building sewer installation shall be paid to the city at the time the application is filed.

(4) **Sewer user charges.**<sup>1</sup> The city shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(5) **Administrative civil penalties.** Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix B). The local administrative

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<sup>1</sup>Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00--\$500.00
Category 3	\$500.00--\$1,000.00
Category 4	\$1,000.00--\$5,000.00
Category 5	\$5,000.00--\$10,000.00

In addition to the penalties herein identified, the local administrative officer reserves the right to charge fees to the violating party as required for the recovery of operational expenses that were incurred as a result of the violation (i.e., POTW upset caused by violator's discharge alone or in combination with others). Operational expenses may include but shall not be limited to fines for NPDES violations, hourly labor and overtime labor, sampling, laboratory analysis, seeding of wastewater treatment plant, equipment repair, legal fees, professional service fees, and other incidental costs incurred by the POTW in response to damages caused by an illicit discharge. (Ord. #14-01, June 2014)

**18-215. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (Ord. #14-01, June 2014)

**TITLE 19**

**ELECTRICITY AND GAS**

**RESERVED FOR FUTURE USE**

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. TELECOMMUNICATIONS.
2. PUBLIC TRAILS.

**CHAPTER 1**

**TELECOMMUNICATIONS**

**SECTION**

- 20-101. Purpose.
- 20-102. Applicable scope.
- 20-103. Definitions.
- 20-104. Municipal right-of-way use permit required.
- 20-105. Application to provide telecommunications services using the public rights-of-way.
- 20-106. Municipal right-of-way use permit issuance.
- 20-107. Petition for reconsideration.
- 20-108. Administration and enforcement.
- 20-109. Applicability.
- 20-110. Compensation to city.
- 20-111. Remitting rental fees to the city.
- 20-112. Audits.
- 20-113. Transfers.
- 20-114. Notices to the city.
- 20-115. Construction obligations.
- 20-116. Conditions of rights-of-way occupancy.
- 20-117. Insurance requirements.
- 20-118. Indemnity.
- 20-119. Privacy of customer information.
- 20-120. Annexation; deannexation.
- 20-121. Unauthorized use of public rights-of-way.

**20-101. Purpose.** The purpose of this chapter is to establish a competitively neutral policy for usage of public rights-of-way for the provision of telecommunications services and enable the city to:

- (1) Permit nondiscriminatory access to the public rights-of-way for providers of telecommunications services; and
- (2) Manage the public rights-of-way in order to minimize the impact and cost to the citizens of the placement of telecommunications facilities within the rights-of-way; and

- (3) Obtain fair and reasonable compensation for the commercial use of public rights-of-way through collection of rents; and
- (4) Promote competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the city; and
- (5) Minimize the congestion, inconvenience, visual impact, and other adverse effects on the city's public rights-of-way. (1995 Code, § 20-101)

**20-102. Applicable scope.** This chapter applies to all telecommunications service providers under Titles II ("Title II") and VI ("Title VI") of the Communications Act of 1934, as amended, (47 U.S.C. 201 et seq.), excluding services provided solely by means of wireless transmission. This chapter does not exempt providers of cable service or open video systems service from the requirements of Title VI and applicable FCC rules and regulations. Any requirements and obligations imposed by this chapter are in addition to any requirements imposed by Title VI or state law and regulation on such providers. (1995 Code, § 20-102)

**20-103. Definitions.** (1) "Applicant." Any person who files an application with the city, under § 20-105 (Application to provide telecommunications service) of this chapter, in order to obtain the necessary permission to use the public rights-of-way to provide telecommunications services within the city, whether by means of the person's own facilities or by means of capacity obtained from another provider of telecommunications services.

(2) "Chief administrative officer." For purposes of this chapter, the Chief Administrative Officer of the City of Tusculum shall be the mayor unless the board of mayor and commissioners designates another individual to carry out the duties and responsibilities of the chief administrative officer. The chief administrative officer shall also mean the person under the chief administrative officer's management and control designated by the chief administrative officer to administer the provisions of this chapter.

(3) "City." The City of Tusculum, Tennessee, the present municipal corporation, together with any future annexation made pursuant to law.

(4) "City requirements." All laws, rules, regulations, policies and directives of general application of the City of Tusculum, in effect at present or to be adopted in the future by the city.

(5) "Gross revenue." All revenues received by a provider for telecommunications services furnished within the city. However, revenues received for use of network capacity, switched or unswitched access, and sale of unbundled elements under 47 U.S.C. 251 (b) and (c) from resellers of telecommunications services who are in compliance with this chapter are not included. Gross revenue does not include revenue uncollectible from customers ("bad debt") and any end user taxes collected from customers.

(6) "Municipal right-of-way use permit" or "municipal permit." The right granted by the city to use public rights-of-way to provide telecommunications services within the city to the public or to other providers, as specified by the terms of this chapter.

(7) "Person." Any person, firm, partnership, association, corporation, company or organization of any kind.

(8) "Provider." A person who has been granted a certificate of need by the Tennessee Regulatory Authority and/or who operates or uses a telecommunications network within the city to provide telecommunications services, and who falls under the definition of § 20-102 (applicable scope) of this chapter.

(9) "Public rights-of-way." The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the city holds any property interest or exercises any rights of management or control over and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of a telecommunications network.

(10) "Telecommunications network" or "network." All facilities placed in the public rights-of-way and used to provide telecommunications services.

(11) "Telecommunications services." All transmissions between or among points specified by the user, of information of the user's choosing (whether voice, video or data), without change in content of the information as sent and received, where such transmissions are accomplished through a telecommunications network. Telecommunications services include all ancillary or adjunct switching services and signal conversions rendered as a function of underlying transmission services, but excludes long distance transmissions (inter-LATA and intra-LATA toll transmissions). Telecommunications services include all services provided. Telecommunications services also include all content or value-added services rendered in conjunction with transmission services. (1995 Code, § 20-103)

**20-104. Municipal right-of-way use permit required.** (1) A person may not deliver telecommunications services in the city by means of a network unless the person obtains a municipal right-of-way use permit.

(2) The use of public rights-of-way for the delivery of any service not covered by this chapter is subject to all other applicable city requirements. (1995 Code, § 20-104)

**20-105. Application to provide telecommunications services using the public rights-of-way.** (1) Any person proposing to provide telecommunications services by means of a telecommunications network located within the public rights-of-way ("applicant") shall submit an application to the chief administrative officer. The application, in a form to be prescribed by the



chief administrative officer, shall describe all services the applicant wishes to provide, outline applicant's proposed network, and identify the uses of and potential impact on the public rights-of-way.

(2) The chief administrative officer shall have the duty to review applications submitted under this chapter and administer the provisions of this chapter regarding the granting or denial of a municipal right-of-way use permit to applicants. The chief administrative officer shall issue municipal right-of-way use permits, and shall administer and enforce compliance with respect to all municipal right-of-way use permits granted under this chapter. The chief administrative officer shall submit a report annually to the board of mayor and commissioners analyzing whether any requirements imposed by each section of this chapter result in (a) anticompetitive effects in the market for telecommunications services in the city, as defined by federal law, and/or (b) discrimination in favor of or against a holder of a certificate of need under state law. (1995 Code, § 20-105)

**20-106. Municipal right-of-way use permit issuance.** (1) If the chief administrative officer finds that the application meets the requirements of this chapter, the chief administrative officer shall cause to be prepared a municipal right-of-way use permit for issuance to the applicant.

(2) The chief administrative officer shall complete all deliberations towards issuing a municipal right-of-way use permit, and shall issue the permit or a written denial within sixty (60) days of the receipt of an application. The applicant shall respond to all reasonable information requests of the chief administrative officer during this consideration period. Any delays in providing such information shall be documented in writing by the chief administrative officer, who may cite any delays or refusals in obtaining information from an applicant as grounds for denial of a permit. (1995 Code, § 20-106)

**20-107. Petition for reconsideration.** The act of granting, denying or terminating a municipal right-of-way use permit is an exercise of the police power of the city. A person whose application for a municipal right-of-way use permit is denied must petition the board of mayor and commissioners for reconsideration before seeking judicial remedies, and must file such a petition within forty-five (45) days of the written denial of such application by the chief administrative officer. A petition is considered denied if the board of mayor and commissioners does not act within forty-five (45) days after the petition is filed with the recorder. (1995 Code, § 20-107)

**20-108. Administration and enforcement.** (1) The chief administrative officer shall administer this chapter and enforce compliance with a municipal right-of-way use permit granted under this chapter.

(2) A provider shall report information that the chief administrative officer requires in the form and manner prescribed by the chief administrative

officer relating to the use of public rights-of-way for the right-of-way occupancy authorized by a municipal right-of-way use permit granted under this chapter.

(3) The chief administrative officer shall report to the board of mayor and commissioners the chief administrative officer's determination that a provider has failed to comply with this chapter. (1995 Code, § 20-108)

**20-109. Applicability.** (1) Sections 20-115 (Construction), 20-116 (ROW Occupancy), and 20-117 (Insurance) of this chapter apply only to a provider that owns or controls physical facilities in the rights-of-way.

(2) Section 20-118 (Indemnity) of this chapter applies to a provider that has a property interest in a network. (1995 Code, § 20-109)

**20-110. Compensation to city.** (1) To compensate the city for the use and occupancy of the public rights-of-way, a provider shall pay a municipal right-of-way rental fee calculated as follows:

(a) Rights-of-way rental fee. Each provider shall be subject to a five percent (5%) annual fee based on gross revenue obtained from the provision of telecommunications services within the city.

(b) Non-monetary consideration. To the extent allowed by state and federal law, the city may include non-monetary consideration from each provider. To the extent not expressly prohibited by applicable law, a provider may agree to furnish to the city non-monetary consideration in the form of telecommunications services, network capacity, conduit, or other infrastructure, valued at the provider's direct cost. The chief administrative officer shall apply a credit or an offset for any non-monetary consideration received to the annual right-of-way rental fee. The chief administrative officer shall publicly disclose the form of non-monetary consideration and the credit amount.

(c) Credit for cable television franchise fees and other contributions. Any telecommunications provider who is currently franchised by the city under state and federal law and regulations to provide cable television service shall receive a credit against the annual rights-of-way rental fee for any cable television franchise fees paid to the city, and any other monetary or non-monetary contributions to the city under a cable franchise agreement.

(2) A provider may pass through to customers the municipal right-of-way rental fee on a pro rata basis, at its discretion, as permitted by state and federal law. The city does not require or recommend a pass-through charge of the fee on a per line or per customer basis. (1995 Code, § 20-110)

**20-111. Remitting rental fees to the city.** A provider shall remit the municipal right-of-way rental fee on a quarterly basis. Payment shall be made on or before the 45th day following the close of each calendar quarter for which the payment is calculated. (1995 Code, § 20-111)

**20-112. Audits.** (1) On thirty (30) days notice to a provider, the city may audit a provider at any time. The provider shall furnish information to demonstrate its compliance with the municipal right-of-way use permit.

(2) A provider shall keep complete and accurate books of accounts and records of business and operations in accordance with generally accepted accounting principles for a period of five (5) years. If the Federal Communications Commission requires, a provider shall use the system of accounts and the forms of books, accounts, records, and memoranda prescribed in 47 CFR part 32 or its successor. The city may examine the provider's books and records.

(3) A provider shall make available to the city, for the city to examine, audit, review and copy, in the city's offices, upon the chief administrative officer's reasonable written request, its books and records including papers, books, accounts, documents, maps, plans and other provider records pertaining to a municipal right-of-way use permit granted under this chapter. A provider shall fully cooperate in making records available and otherwise assist the city examiner. The city examiner shall not make copies of customer specific information. (1995 Code, § 20-112)

**20-113. Transfers.** (1) A provider may not transfer a municipal right-of-way use permit unless the chief administrative officer approves the transfer in writing.

(2) A change in control of a provider is a transfer requiring chief administrative officer approval. A change of twenty-five percent (25%) or greater in the ownership of the provider establishes a rebuttable presumption of a change in control.

(3) If a provider attempts to transfer or transfers the provider's municipal right-of-way use permit without approval of the chief administrative officer, the chief administrative officer may revoke the municipal right-of-way use permit. If a municipal right-of-way permit is revoked, all rights of the provider under the municipal right-of-way use permit end.

(4) A provider may transfer, without the chief administrative officer's approval, the facilities in the rights-of-way under a municipal right-of-way use permit to the provider's affiliate or to another provider who has a municipal right-of-way use permit under this chapter. The provider transferring the facilities remains subject to all applicable obligations and provisions of the municipal right-of-way use permit unless the provider to which the facilities are transferred is also subject to these applicable and provisions.

(5) The chief administrative officer must act on a request for transfer of a municipal right-of-way permit within ninety (90) days of receipt of the request from the provider. Any request for a transfer of a municipal right-of-way permit not acted upon within ninety (90) days shall be deemed to have been approved. (1995 Code, § 20-113)

**20-114. Notices to the city.** (1) A provider shall notify the chief administrative officer in writing contemporaneously with the transmittal of all petitions, applications, written communications and reports submitted by the provider, to the Federal Communications Commission and the Tennessee Regulatory Authority, or their successor agencies relating to matters affecting both the use of public rights-of-way and the telecommunications services authorized by a municipal permit granted under this chapter. A provider shall furnish the chief administrative officer copies of the documents upon request.

(2) If a provider notifies the city of the confidential nature of information, the chief administrative officer shall maintain the confidentiality of the information to the extent permitted by law. Upon receipt in the chief administrative officer's office of requests for confidential information the city shall notify the affected providers of the request by facsimile transmission. (1995 Code, § 20-114)

**20-115. Construction obligations.** (1) A provider is subject to the police powers of the city, other governmental powers, and the city's rights as a property owner under state and federal laws. A provider is subject to city requirements and federal and state rules in connection with the construction, expansion, reconstruction, maintenance or repair of facilities in the public rights-of-way.

(2) A provider shall place certain facilities underground according to applicable city requirements.

(3) At the city's request, a provider shall furnish the city accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation and repair of facilities performed by the provider in the public rights-of-way. If any information furnished is erroneous as to the location of facilities, and reliance on this information results in construction delays or additional expenses, the provider who furnished the erroneous information shall be liable for the cost of delays and the additional expenses.

(4) The construction, expansion, reconstruction, excavation, use, maintenance and operation of a provider's facilities and property are subject to applicable city requirements.

(a) A provider shall perform excavations and other construction in the public rights-of-way in accordance with all applicable city requirements, including the obligation to use trenchless technology whenever possible. The planning commission may waive the requirement of trenchless technology if it is determined that field conditions warrant the waiver. A provider shall minimize interference with the use of public and private property and shall follow the construction directions given by the city.

(b) When a provider completes construction work, a provider shall promptly restore the public rights-of-way in accordance with applicable city requirements. A provider may excavate only for the

construction, installation, expansion, repair, removal and maintenance of the provider's facilities.

(c) The city may require a provider to allow attachment of another provider's facilities to its poles and conduits, in accordance with the city charter, state and federal law.

(d) A provider shall furnish the planning commission and the chief administrative officer with construction plans and maps showing the routing of new construction at least forty-five (45) days before beginning construction that involves an alteration to the surface or subsurface of the public right-of-way. A provider may not begin construction until the plans and drawings have been approved in writing by the planning commission.

(e) If the chief administrative officer declares an emergency and requests the removal or abatement of facilities, by written notice, a provider shall remove or abate the provider's facilities by the deadline provided in the chief administrative officer's request. A provider and the city shall cooperate to the extent possible to assure continuity of service. If a provider, after notice, fails or refuses to act, the city may remove or abate the facility, at the sole costs and expense of the provider, without paying compensation to the provider and without the city incurring liability for damages.

(f) Except in an emergency, a provider may not excavate the pavement of a street or public right-of-way without first complying with city requirements.

(g) Within one hundred twenty (120) days of completion of each new segment of a provider's facilities, a provider shall supply the city with a complete set of "as built" drawings for the segment in a formal prescribed by the planning commission. A provider must obtain the city's approval before relocating the provider's facilities in the public rights-of-way. The city may not unreasonably withhold approval. A provider shall furnish a revised map including additional facilities on June 30 of each year to the planning commission showing how these facilities connect to existing facilities. (1995 Code, § 20-115)

**20-116. Conditions of rights-of-way occupancy.** (1) In the exercise of governmental functions, the city has first priority over all other uses of the public rights-of-way. The city reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachment, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley or right-of-way occupied by a provider, and to change the curb, sidewalks or the grade of streets.

(2) In case of conflict or interference between the facilities of different providers, the provider whose facilities were first permitted shall have priority over a competing provider's use of the public rights-of-way.

(3) If, during the term of a municipal permit, the city authorizes abutting landowners to occupy space under the surface of any public street, alley, or rights-of-way, the grant to an abutting landowner shall be subject to the rights of the provider. If the city closes or abandons a public right-of-way that contains a portion of a provider's facilities, the city shall convey the land in the closed or abandoned public rights of-way subject to the rights granted in the municipal permit.

(4) If the city gives written notice, a provider shall, at the provider's expense, temporarily or permanently, remove, relocate, change or alter the position of provider's facilities that are in the public rights-of-way within one hundred twenty (120) days. The city shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city or other governmental entity's public improvement in the public rights-of-way. This section shall not be construed to prevent a provider's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal.

(5) A provider who holds a municipal permit may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its network. All tree trimmings shall be performed in accordance with standards promulgated by the city. When ordered by the planning commission, tree trimmings shall be done under the supervision of the city.

(6) Providers shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the city gives written notice of no less than forty-eight (48) hours. The expense of this temporary rearrangement shall be paid by the party or parties requesting and benefitting from the temporary rearrangement. Provider may require prepayment or prior posting of a bond from the party requesting the temporary move. (1995 Code, § 20-116)

**20-117. Insurance requirements.** (1) A provider shall obtain and maintain insurance in the amounts prescribed by the chief administrative officer with an insurance company licensed to do business in the State of Tennessee acceptable to the chief administrative officer throughout the term of a municipal permit granted under this chapter. A provider shall furnish the city with proof of insurance at the time of issuance of a municipal permit. The city reserves the right to review the insurance requirements while a municipal permit is in effect, and to reasonably adjust insurance coverage and limits when the chief administrative officer determines that change in statutory law, court decisions, or the claims history of the industry or the provider require adjustment of the coverage. For purposes of this section, the city will accept certificates of self-insurance issued by the State of Tennessee providing the same coverage.

(2) The chief administrative officer may, on request and at no cost to the city, receive copies of certificates of insurance evidencing the coverage

required by this section. The chief administrative officer may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the city, the provider, or the underwriter. If the chief administrative officer requests a deletion, revision or modification, a provider shall exercise reasonable efforts to pay for and to accomplish the change.

An insurance certificate shall contain the following required provisions:

(a) Name the city and its officers, employees, board members and elected representatives as additional insurers for all applicable coverage;

(b) Provide for thirty (30) days notice to the city for cancellation, non-renewal, or material change;

(c) Provide that notice of claims shall be provided to the chief administrative officer by certified mail; and

(d) Provide that the terms of the municipal permit which impose obligations on the provider concerning liability, duty, and standard of care, including the indemnity section, are included in the policy and that the risks are insured within the policy terms and conditions.

(3) A provider shall file and maintain proof of insurance with the chief administrative officer during the term of a municipal permit. An insurance certificate obtained in compliance with this section is subject to city approval. The city may require the certificate to be changed to reflect changing liability limits. A provider shall immediately advise the city of actual or potential litigation that may develop that would affect insurance coverage related to a municipal permit.

(4) An insurer has no right of recovery against the city. The required insurance policies shall protect the provider and the city. The insurance shall be primary coverage for losses covered by the policies.

(5) The policy clause "other insurance" shall not apply to the city where the city is an insured under the policy.

(6) The provider shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by a provider must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damages covered by the policy. (1995 Code, § 20-117)

**20-118. Indemnity.** (1) During the term of a municipal permit, a provider is liable for the acts or omissions of an entity used by the provider, including but not limited to an affiliate, when the entity is involved directly or indirectly in the construction and installation of the provider's facilities. The acts or omissions of the entity shall be considered the acts or omissions of the provider.

(2) Each provider granted a municipal permit under this chapter shall provide to the chief administrative officer, in writing, a statement that the provider agrees to defend, indemnify and hold the city harmless against all damages, cost, loss or expenses arising out of, incident to, concerning or resulting from the negligence or willful misconduct of the provider, its agents, employees, or subcontractors, in the performance of activities under the municipal permit:

(a) For the repair, replacement, or restoration of city property, equipment materials, structures and facilities which are damaged, destroyed or found to be defective; and

(b) Against any and all claims, demands, suits, causes of action, and judgments for:

(i) Damage to or loss of the property of any person including, but not limited to the provider, its agents, officers, employees and subcontractors; the city's agents, officers and employees, and third parties; and

(ii) Death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person including but not limited to the agents, officers and employees of the provider, the provider's subcontractors, the city, and third parties, no matter how, or to whom, the loss may occur.

(3) The chief administrative officer shall give prompt written notice to a provider of any claim for which the city seeks indemnification. The provider shall have the right to investigate, defend and compromise these claims subject to the city's prior approval. (1995 Code, § 20-118)

**20-119. Privacy of customer information.** A provider shall comply with state and federal law regarding privacy of customer information. (1995 Code, § 20-119)

**20-120. Annexation; deannexation.** Within thirty (30) days following the date of passage of any action affecting any deannexation or annexation, the chief administrative officer shall notify providers of this action by furnishing to the providers maps of the affected area(s), showing the new boundaries of the city. (1995 Code, § 20-120)

**20-121. Unauthorized use of public rights-of-way.** (1) A person commits an offense if a person uses the public rights-of-way to provide a telecommunications service without first securing a municipal permit from the city.

(2) Each unauthorized use of the public rights-of-way and each unauthorized placement of facilities constitutes a separate offense. Each day a violation of this chapter occurs shall constitute a distinct and separate offense.



(3) An offense under this subsection is punishable by a fine of five hundred dollars (\$500.00). (1995 Code, § 20-121)

## CHAPTER 2

### PUBLIC TRAILS

#### SECTION

20-201. Skateboards, in-line skates, or scooters prohibited.

20-202. Animals prohibited; exceptions.

20-203. Motorized vehicles and other equipment prohibited.

**20-201. Skateboards, in-line skates, or scooters prohibited.** It shall be unlawful for any person to use a skateboard, in-line skates, or scooters on the Linear Park Trail or other trails as so designated by the city commission. (1995 Code, § 20-201)

**20-202. Animals prohibited; exceptions.** It shall be unlawful to bring an animal onto the Linear Park Trail or other trails as so designated by the city commission, with the following exceptions:

(1) If such animal is used to assist those who may be sight impaired.

(2) Dogs who are on a short leash and are controlled at all times by their owners shall be allowed on the Tusculum Linear Trail only from a point on the east side of the pedestrian bridge which crosses the Tusculum ByPass to the east end of the trail (that portion of the Linear Trail between the two (2) trail parking lots on Edens Road). Trail signage will indicate these boundaries. Dog owners shall be responsible for immediately and properly disposing of their dog's solid waste deposited on or near the Linear Trail. (1995 Code, § 20-202, as replaced by Ord. #18-03, July 2018 *Ch2\_7-27-20*)

**20-203. Motorized vehicles and other equipment prohibited.** It shall be unlawful for any person to operate or cause to be operated any motorized vehicle, construction or farm equipment upon or across the Tusculum Linear Trail or other trails, sidewalks, streets, or other areas so designated by the city commission, except at locations designated as crossing areas. (Ord. #06-3, Oct. 2006)

**APPENDIX**

**A. OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.**

**APPENDIX A**

**PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND  
HEALTH PROGRAM FOR THE EMPLOYEES OF CITY OF TUSCULUM<sup>1</sup>**

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<sup>1</sup>Appendix to Ord. #13-04, April 2013, title 4, chapter 3.

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## I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Tusculum. This plan is applicable to all employees part-time, full-time, seasonal or permanent.

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

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.

- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

## II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. **COMMISSIONER OF LABOR and Workforce Development** means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. **EMPLOYER** means the City of Tusculum and includes each administrative department, board, commission, division, or other agency of the City of Tusculum.
- c. **SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY DIRECTOR** means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the City of Tusculum.
- d. **INSPECTOR(S)** means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. **APPOINTING AUTHORITY** means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. **EMPLOYEE** means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This

definition shall not include independent contractors, their agents, servants, and employees.

- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
  - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
  - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. ACT or TOSH Act shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

### III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employer(s) place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.



- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all work sites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

#### **IV. EMPLOYEE'S RIGHTS AND DUTIES**

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provisions of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employees shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be

provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

**V. ADMINISTRATION**

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
  1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
  2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
  3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
  4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
  5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
  6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
  7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
  8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
  9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be

responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.

1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

## **VI. STANDARDS AUTHORIZED**

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

## **VII. VARIANCE PROCEDURE**

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development. The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
  1. A specification of the standard or portion thereof from which the variance is sought.
  2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
  3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
  4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
  5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
  
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
  
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
  1. The employer:
    - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
    - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
    - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
  - d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
  - e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
  - f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section.

## **VIII. RECORDKEEPING AND REPORTING**

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to [www.osha.gov](http://www.osha.gov) and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

## **IX. EMPLOYEE COMPLAINT PROCEDURE**

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should

sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).

- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

## X. EDUCATION AND TRAINING

- a. Safety Director and/or Compliance Inspector(s):
  - 1. Arrangements will be made for the Safety Director and/or Compliance Inspectors to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
  - 2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
  
- b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

  - 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
  - 2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicant, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
  - 3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure and the first aid procedures to be followed in the event of injury or exposure.
  - 4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave in; Heat Stress and Drowning.
  - 5. Instruct employees on hazards and dangers of confined or enclosed spaces.



- i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
- ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
- iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

## **XI. GENERAL INSPECTION PROCEDURES**

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
  1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
  2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and

in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent or employee working therein.

- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
  - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
  - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
  2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

## **XII. IMMINENT DANGER PROCEDURES**

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
  2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
  3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
  4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
  5. The imminent danger shall be deemed abated if:
    - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.

- ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
  6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
  1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
  2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

### **XIII. ABATEMENT ORDERS AND HEARINGS**

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
  1. Issue an abatement order to the head of the worksite.
  2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
  1. The standard, rule, or regulation which was found to be violated.
  2. A description of the nature and location of the violation.
  3. A description of what is required to abate or correct the violation.
  4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such

hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

#### **XIV. PENALTIES**

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
  1. Oral reprimand.
  2. Written reprimand.
  3. Suspension for three (3) or more working days.
  4. Termination of employment.

#### **XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION**

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

#### **XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS**

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the

alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

**XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED**

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

s/ Eva Sams

4-30-13

Signature, Safety Director, Occupational Safety and Health and Date

**CITY OF TUSCULUM**

**APPENDIX-1 WORK LOCATIONS**

Police Department 145 Alexander Street Greeneville, TN 37745 423-638-6211	2 Employees
--	-------------

Public Works Department 145 Alexander Street Greeneville, TN 37745 423-638-6211	2 Employees
--	-------------

City Recorder 145 Alexander Street Greeneville, TN 37745 423-638-6211	1 Employee
--	------------

<b>TOTAL NUMBER OF EMPLOYEES</b>	<u>5</u>
----------------------------------	----------

**APPENDIX-II NOTICE TO ALL EMPLOYEES**

**NOTICE TO ALL EMPLOYEES OF THE CITY OF TUSCULUM**

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development this government as an employer is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

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

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

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

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

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or City Recorder.

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

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

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





**APPENDIX - III PROGRAM PLAN BUDGET**

(Either answer questions 1-11 or fill in the statement below)

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities).
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the Program Plan.
11. Contingencies and miscellaneous.

**TOTAL ESTIMATED PROGRAM PLAN FUNDING**

**ESTIMATE OF TOTAL BUDGET FOR:**

**OR Use This Statement:**

**STATEMENT OF FINANCIAL RESOURCE AVAILABILITY**

Be assured that the City of Tusculum has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

**APPENDIX - IV ACCIDENT REPORTING PROCEDURES**

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

(16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

(51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record-keeper.

(251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss

of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Clerk, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

# **APPENDIX B**

GREASE TRAP SIZING METHODS

STEP SYSTEM APPLICATION FORM

FOG APPLICATION AND IMPLEMENTATION PLAN

ENFORCEMENT RESPONSE PLAN

(Ord. #14-01, June 204)

## GREASE TRAP SIZING METHODS

(SOURCE: EPA ONSITE WASTEWATER TREATMENT  
SYSTEMS MANUAL)

### 1. Restaurants:

$(D) \times (GL) \times (ST) \times (HR/2) \times (LF) = \text{Size of Grease Trap, (Gallons) where:}$

D = Number of seats in dining area

GL = Gallons of waste water per meal

<u>Condition</u>	<u>Flow Rate (Gallons)</u>
With a Dishwashing Machine	6
Without a Dishwashing Machine	5
Singles Service Kitchen	2
Food Waste Disposer Only	1

ST = Storage capacity factor

<u>Kitchen Type</u>	<u>Storage Factor</u>
Fully Equipped Commercial	
Hours of Operation	
8 Hours	1.00
12 Hours	1.50
16 Hours	2.00
24 Hours	3.00
Singles Service Kitchen	1.50

HR = Number of hours open

LF = Loading Factor

<u>Location</u>	<u>Loading Factor</u>
Interstate Freeways	1.25
Other Freeways	1.00
Recreational Areas	1.00
Main Highways	0.80
Other Highways	0.50

**2. Commercial kitchens with varied seating capacities (other than restaurants):**

(M) x (GL) x (ST) x (LF) = Size of Grease Trap, (Gallons) where:

M = Meals per day

GL = Gallons of waste water per meal

<u>Condition</u>	<u>Flow Rate (Gallons)</u>
With a Dishwashing Machine	6
Without a Dishwashing Machine	5
Singles Service Kitchen	2
Food Waste Disposer Only	1

ST = Storage capacity factor

<u>Kitchen Type</u>	<u>Storage Factor</u>
Fully Equipped Commercial	
Hours of Operation	
8 Hours	1.00
12 Hours	1.50
16 Hours	2.00
24 Hours	3.00
Singles Service Kitchen	1.50

LF = Loading Factor

<u>Location</u>	<u>Loading Factor</u>
Interstate Freeways	1.25
Other Freeways	1.00
Recreational Areas	1.00
Main Highways	0.80
Other Highways	0.50

Note: The minimum size grease traps shall be is 750 gallons.



**City of Tusculum, TN  
PO Box 5014  
Tusculum, TN 37742**

### STEP System Application Form

<b>Site Address:</b>		Zip:	Bldg. Permit #	
Legal Description	Lot	Block	Subdivision	Sec #
OR	Acres	of the		Survey #
Tax Parcel #				

<b>Property Owner:</b>	Phone:	Email:
Mailing Address:	Fax:	
<b>Designer's Name:</b>	Phone:	Email:
Mailing Address:	Fax:	
<b>Builder or Agent:</b>	Phone:	Email:

#### Type of Development

<input type="checkbox"/> Single Family Residential	Living area size:	Bedrooms:
Estimated daily water use (Gallons):		
<input type="checkbox"/> <b>Non-residential (or multi-family residential)</b>		
Type of use:	Size of building:	
No. of employees:	Days occupied per week:	No of customers:
Estimated daily water use (Gallons):	Is water used in a manufacturing process?	

- Onsite Common Field (Decentralized System)  
Distance from the property lines to the closest organized sewer line:
- Less than 100 feet (Actual Distance: ft.)  
 Greater than 100 feet (Actual Distance: ft.)

I CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT. AUTHORIZATION IS HEREBY GIVEN TO THE CITY OF TUSCULUM TO ENTER UPON THE ABOVE DESCRIBED PRIVATE PROPERTY FOR THE PURPOSE OF SITE EVALUATIONS AND INSPECTIONS OF THE STEP SYSTEM.

<b>Signature of Owner</b>	<b>Printed Name of Owner</b>	<b>Date</b>
---------------------------	------------------------------	-------------

**City of Tusculum, TN  
PO Box 5014  
Tusculum, TN 37742**

**FOG APPLICATION FORM FOR COMMERCIAL AND/OR RESTAURANT  
WASTEWATER DISCHARGE**

**SECTION A – GENERAL INFORMATION**

1. Company Name: \_\_\_\_\_

A. Facility Name: \_\_\_\_\_

B. Corporate Owner, if different: \_\_\_\_\_

2. Facility Address

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

3. Business Mailing Address:

Street or P.O. Box: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

4. Designated signatory authority of the facility:  
(Attach similar information for each authorized representative)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

5. Designated facility contact:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

**SECTION B – WATER SUPPLY**

- 1. Name as it appears on the water bill: \_\_\_\_\_  
Additional Name, if applicable: \_\_\_\_\_  
Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
- 2. Water Service Account Number(s) \_\_\_\_\_
- 3. Attach a copy of last water bill: \_\_\_\_\_

**SECTION C – WASTEWATER DISCHARGE INFORMATION**

- 1. Wastewater Classification Sheet (WCS) – Use the attached blank template to describe each wastestream in relation to the grease interceptor and/or grease trap at your facility.
- 2. Are any changes or expansions planned during the next three years that could alter wastewater volumes or characteristics? Consider expansion and any other significant wastewater volume increases.
  - Yes
  - No (If No, skip question 3)
- 3. Briefly describe these changes and their effects on the wastewater volume and characteristics: (Attach additional sheets if needed.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SECTION D - TREATMENT**

- 1. Does your facility have a grease interceptor or grease traps?
  - Yes
  - No (If No, skip to section E)

2. List the location, size, and specifications for all grease interceptors at your facility:

Location	Size	Additional Specifications	Type ( Circle One)
			Grease Interceptor / Fixture Trap
			Grease Interceptor / Fixture Trap
			Grease Interceptor / Fixture Trap

3. Are these grease traps/interceptors serviced regularly (i.e. pumped on, at least, a quarterly basis)?

- Yes
- No

How often are they serviced?

Location	Service Frequency

4. Are there additives placed into the grease interceptor (i.e. enzymes, bacteria, etc.)?

- Yes
- No

How often are they added to the interceptor?

Location	Service Frequency

List all additives used?

Location	Service Frequency

**SECTION D – FACILITY OPERATIONAL CHARACTERISTICS**

1. Shift Information

Work Days	<input type="checkbox"/> Mon	<input type="checkbox"/> Tues	<input type="checkbox"/> Wed	<input type="checkbox"/> Th	<input type="checkbox"/> Fri	<input type="checkbox"/> Sat	<input type="checkbox"/> Sun
Shifts worked per day							
Employees per shift – 1 <sup>st</sup>							
Employees per shift – 2 <sup>nd</sup>							
Employees per shift – 3 <sup>rd</sup>							

2. List all major equipment used for food preparation at your facility (i.e. grills, garbage disposals, fryers, dishwashers, sinks etc.):

Type	Size/Specifications

3. Provide a copy of the indoor and outdoor plumbing floor diagrams, which should include the location of all water meters, facility sewer connections, grease interceptors/traps, sinks, floor drains, dishwashers, restrooms, etc. If no professional drawing exists a hand drawn copy will be acceptable.

**SECTION F - CONFIDENTIAL BUSINESS INFORMATION**

All information contained in this application and corresponding Wastewater Discharge Permit are considered public information and is available to any member of the public upon request. All effluent data collected or submitted shall be made available to the public without restriction.

Confidential information is information that is considered proprietary, trade secrets, or have an adverse impact on a business advantage should it be divulged. Any information that is considered confidential will be handled as such and kept in our records department under separate cover and is not available to the public.

**SECTION G – AUTHORIZED SIGNATURES**

Compliance Certification:

1. Are all applicable Federal, State, and local pretreatment standards and requirements being met on a consistent basis?

- Yes
- No
- Not Sure

If No:

a. What additional operations and maintenance procedures are being considered to bring the facility into compliance? Also, list additional treatment technology or practice being considered in order to bring the facility into compliance.

b. Provide a schedule for bringing the facility into compliance. Specify major events planned along with reasonable completion dates. Note that if the City of Tusculum issues a permit to the applicant, it may require the completion of a schedule for compliance different from the one submitted by the facility.

Milestone Activity	Completion Date
_____	_____
_____	_____

Authorized Representative Statement:

I certify under penalty of law that this document and all its attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

## ORDINANCE NO. 15-03

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION  
AND REVISION OF THE ORDINANCES OF THE CITY OF TUSCULUM,  
TENNESSEE.

WHEREAS some of the ordinances of the City of Tusculum are obsolete,  
and

WHEREAS some of the other ordinances of the city are inconsistent with  
each other or are otherwise inadequate, and

WHEREAS the board of commissioners of the City of Tusculum, Tennessee, has  
caused its ordinances of a general, continuing, and permanent application or of a penal  
nature to be codified and revised and the same are embodied in a code of ordinances  
known as the "Tusculum Municipal Code,"  
now, therefore:

BE IT ORDAINED BY THE CITY OF TUSCULUM, AS FOLLOWS:<sup>1</sup>

**Section 1. Ordinances codified.** The ordinances of the city of a general,  
continuing, and permanent application or of a penal nature, as codified and revised in the  
following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the  
"Tusculum Municipal Code," hereinafter referred to as the "Municipal Code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and  
permanent application or of a penal nature not contained in the municipal code are hereby  
repealed from and after the effective date of said code, except as hereinafter provided in  
Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2  
of this ordinance shall not affect: Any offense or act committed or done, or any penalty or  
forfeiture incurred, or any contract or right established or accruing before the effective  
date of the municipal code; any ordinance or resolution promising or requiring the  
payment of money by or to the city or authorizing the issuance of any bonds or other  
evidence of said city's indebtedness; any appropriation ordinance or ordinance providing  
for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in  
favor of said city; any ordinance establishing a social security system or providing

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<sup>1</sup> Charter reference

Tennessee Code Annotated § 6-20-214.

coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefore; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

**Section 4. Continuation of existing provisions.** In so far as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

Each day any violation of the municipal code continues shall constitute a separate civil offense.

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<sup>1</sup> State Law Reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.



**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted there from.

**Section 7. Reproduction and amendment of code.** The municipal code shall be reproduced in loose-leaf form. The board of commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

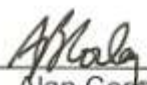
**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

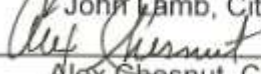
**Section 10. Date of effect.** This ordinance shall take effect no sooner than fifteen (15) days after its final passage thereof, provided that it is read two (2) different days in open session before its adoption, and not less than one week elapses between first and second readings, the welfare of the city requiring it, the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed on First Reading: June 15, 2015

Passed on Second Reading: July 20, 2015

Approved and Signed in Open Meeting:   
Alan Corey, Mayor

Attest:   
John Lamb, City Recorder

  
Alex Chesnut, City Attorney  
ALEX CHESNUT, CITY ATTORNEY