

**THE
ATHENS
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

February 1995

Change 14, October 16, 2012

CITY OF ATHENS, TENNESSEE

MAYOR

Hal Buttram

VICE-MAYOR

Ann S. Davis

COUNCIL MEMBERS

Chuck T. Burris
Dick Pelley
William Bo Perkinson

CITY MANAGER

Mitchell B. Moore

CITY CLERK

Leslie McKee

CITY ATTORNEY

H. Chris Trew

Preface

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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

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

Steve Lobertini
Legal Consultant

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

ARTICLE VI

Ordinances

Section 1. Be it further enacted, That ordinances shall begin, "Be it ordained by the City of Athens as follows:"

Section 2. Be it further enacted, That every ordinance enacted by the Council shall be presented to the Council and passed by a majority of the Council members present on two (2) separate days, the second presentation to be not less than fourteen (14) days following the first presentation unless a majority of the entire Council shall by recorded vote waive this time requirement. Upon each presentation the caption of the ordinance shall be read or its substance stated, and upon request of any member of the Council, or upon the request of any resident or taxpayer of the municipality an ordinance shall be read in full before final passage. Except in the ordinance adopting the budget, no material or substantial amendment may be made on second or final passage unless such amendment is passed in the same manner as an amendment to an existing ordinance. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred.

An emergency ordinance may become effective upon the day of its final passage, provided that it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.

No ordinance making a grant, renewal, or extension of a franchise or other special privilege shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. [As amended by Priv. Acts 1987, ch. 56, § 2; Priv. Acts 1990, ch. 213, § 1; and Priv. Acts 2000, ch. 83, § 3]

Section 3. Be it further enacted, That in all cases under the preceding section, the vote shall be determined by yeas and nays; the names of the members voting for or against an ordinance shall be entered upon the journal.

Section 4. Be it further enacted, That every ordinance shall be immediately taken charge of by the City Manager and by him numbered, copied in an ordinance book, filed and preserved in his office.

Section 5. Be it further enacted, That a summary of all ordinances of a penal nature shall be published at least once in a newspaper of the city and no such ordinance shall be in force until it is so published.

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. CITY COUNCIL.
2. CITY MANAGER.
3. DIRECTOR OF FINANCE AND CITY CLERK.
4. CITY ATTORNEY.
5. CODE OF ETHICS.

CHAPTER 1

CITY COUNCIL²

SECTION

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

1-101. Time and place of regular meetings. The city council shall hold regular monthly meetings at 6:00 P.M., Local Standard Time, on the third Tuesday of each month at the city hall. (1972 Code, § 1-101)

¹Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Eligibility: art. IV, § 2.

Elections: art. IV, § 1.

Powers enumerated: art. III and art. V, § 18.

Quorum: art. V, § 13.

Recall elections: art. IV, § 7.

Terms of office: art. IV, § 4.

Vacancies in office: art. V, § 10.

1-102. Order of business. At each meeting of the city council, 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 clerk.
- (4) Approval of minutes from previous meeting.
- (5) Communications from the mayor.
- (6) Petitions and requests from citizens.
- (7) Reports from committees, members of the city council, and other officers.
- (8) Consent agenda.
- (9) Ordinances.
- (10) Old business.
- (11) New business.
- (12) Adjournment. (1972 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 city council 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. (1972 Code, § 1-103, modified)

CHAPTER 2

CITY MANAGER¹

SECTION

- 1-201. Bond.
 1-202. Expenditures generally.
 1-203. Expenditures without specific authorization.
 1-204. Expenditures between \$1,001 and \$10,000.
 1-205. Expenditures exceeding \$10,000.

1-201. Bond. Before entering upon his duties the city manager shall execute a fidelity bond in the sum of not less than \$25,000.00 for the faithful performance of his duties. The bond shall have as surety thereon some surety company authorized to do business in the state. (1972 Code, § 1-201)

1-202. Expenditures generally. The city manager shall see that all purchases for the city are made in accordance with charter requirements, in conformity with budget and appropriation ordinances and in such a manner as will reasonably insure for the city the lowest possible price. (1972 Code, § 1-202)

1-203. Expenditures without specific authorization. The maximum expenditure which the city manager may make without specific authorization of the city council is \$10,000.00. (1972 Code, § 1-203, modified, as amended by Ord. #868, § 1, April 2000)

1-204. Expenditures between \$1,001 and \$10,000. Prior to making expenditures between \$1,001 and \$2,500, the city manager shall obtain at least three (3) competitive prices via telephone, written quotations, or facsimile; between \$2,501 and \$10,000, at least three (3) competitive prices shall be obtained via written quotation or facsimile. (1972 Code, § 1-204, modified, as amended by Ord. #868, § 2, April 2000)

1-205. Expenditures exceeding \$10,000. No purchase shall be made at any one time in an amount which in the aggregate will exceed \$10,000.00 unless

¹Charter references

Administrative head: art. IX, § 1.

Bond: art. VIII, § 4.

Budget officer: art. XVII, § 1.

Powers and duties: art. IX, § 2.

Qualifications: art. VIII, § 1.

Vacancy in office: art. IX, § 1.

bids shall have been requested in a newspaper of general circulation and written invitations to bid made available not less than fourteen (14) days prior to the opening of bids. (1972 Code, § 1-205, modified, as amended by Ord. #868, § 3, April 2000)

CHAPTER 3

DIRECTOR OF FINANCE¹ AND CITY CLERK

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The director of finance shall be bonded in the minimum sum of twenty-five thousand dollars (\$25,000.00), with surety acceptable to the city council, before assuming the duties of said office. (1972 Code, § 1-301, as amended by Ord. #917, April 2004)

1-302. To keep minutes, etc. The city clerk or designee of the city manager shall keep the minutes of all meetings of the city council and shall preserve the original copy of all ordinances in a separate ordinance book. (1972 Code, § 1-302, as amended by Ord. #917, April 2004)

1-303. To perform general clerical duties, etc. The city clerk or designee of the city manager shall perform all clerical duties for the city manager and city council which are not expressly assigned by the charter or this code to another corporate officer. (1972 Code, § 1-303, as amended by Ord. #917, April 2004)

¹Charter references

Evaluation of utility properties: art. XXI, § 8(e).

General provisions: art. XII.

Taxes and special assessments: art. XIII, § 1.

CHAPTER 4

CITY ATTORNEY¹

SECTION

- 1-401. Tenure.
- 1-402. To be legal advisor.
- 1-403. To review ordinances.
- 1-404. To prosecute for city.
- 1-405. To prepare contracts, etc.
- 1-406. To collect debts.
- 1-407. Miscellaneous duties.

1-401. Tenure. The city attorney shall serve at the will and pleasure of the city council. (1972 Code, § 1-401)

1-402. To be legal advisor. The city attorney shall act as legal advisor to, and attorney and counsel for, the municipality and all its officers in matters relating to their official duties. (1972 Code, § 1-402)

1-403. To review ordinances. The city attorney shall, upon the introduction of an ordinance, see that it is in proper form and not in conflict with any constitutional, statutory, or charter provision. (1972 Code, § 1-403)

1-404. To prosecute for city. The city attorney, when requested, shall be the prosecutor in any police, municipal, or other court. (1972 Code, § 1-404)

1-405. To prepare contracts, etc. The city attorney shall prepare all contracts, bonds, and other instruments in writing in which the municipality is concerned and shall endorse on each his approval of the form and correctness thereof. (1972 Code, § 1-405)

1-406. To collect debts. Upon a report to the city attorney by the city manager of any indebtedness to the city on the part of any former officer or employee, ascertained by the manager upon audit occasioned by the death, resignation, removal, or expiration of the term of such officer, the city attorney shall forthwith proceed to collect the same. (1972 Code, § 1-406)

¹Charter references

Appointment, duties and compensation: art. X.

Delinquent tax collection: art. XI, § 6.

Supervision and control by manager: art. IX, § 2(e).

1-407. Miscellaneous duties. In addition to the above duties, the city attorney shall perform such other duties as may be required of him by statute, charter or ordinances, or by the city manager. (1972 Code, § 1-407)

CHAPTER 5

CODE OF ETHICS¹

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in non-voting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations.

1-501. 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

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

Campaign finance - T.C.A. Title 2, Chapter 10.

Conflict of interests - T.C.A. §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements - T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials - T.C.A. §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) - T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information - T.C.A. § 39-16-401 and the following sections.

Ouster law - T.C.A. § 8-47-101 and the following sections.

separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #956, June 2007)

1-502. Definition of "personal interest." (1) For purposes of §§ 1-503 and 1-504, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #956, June 2007)

1-503. 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 himself¹ from voting on the measure. (as added by Ord. #956, June 2007)

1-504. 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 city manager. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #956, June 2007)

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

1-505. 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.

The following are not deemed to be a prohibition against accepting any money, gift, gratuity, or other consideration or favor of any kind:

(a) Any gift, excluding money, intended for all department heads, all members of city council, or all members of any committee or board appointed by city council at/or near a holiday given for a non-business purpose and motivated by the holiday season;

(b) Any unsolicited token or award of appreciation in recognition of public service in the form of a plaque, trophy, desk item, or other similar item provided that any such item shall not be in a form that can be readily converted to cash;

(c) Informational materials in the form of books, articles, periodicals, other written materials, audio tapes, video tapes or other forms of communication;

(d) Gifts that are given for a non-business purpose and motivated by a close personal friendship;

(e) Sample merchandise, promotional items, and appreciation tokens if such merchandise items and tokens are routinely given to customers, suppliers, or potential customers, or suppliers in the ordinary course of business, the value of which to the official or employee does not exceed fifty dollars (\$50.00) per occasion or accumulative value of more than one hundred dollars (\$100.00) to the official or employee during a calendar year from the same person or business entity; and

(f) Food, refreshments, meals, or beverages, the value of which to the official or employee does not exceed fifty dollars (\$50.00) per occasion or accumulative value of more than one hundred dollars (\$100.00) to the official or employee during a calendar year from the same person or business entity. (as added by Ord. #956, June 2007)

1-506. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #956, June 2007)

1-507. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #956, June 2007)

1-508. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #956, June 2007)

1-509. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #956, June 2007)

1-510. 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 interest 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.

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

(e) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #956, June 2007)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #956, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.¹

(RESERVED FOR FUTURE USE)

¹Charter reference

Athens Utilities Board: art. XXI.

Municipal code references

Board of Housing Appeals: § 12-519.

Municipal Planning Commission: §§ 14-101--14-103.

For provisions relating to the appointment of the Athens Housing Authority, see the resolution dated March 6, 1950, of record in the city manager's office.

For provisions relating to the appointment of the Commission on Human Relations, see the resolution dated March 7, 1961, of record in the city manager's office.

For provisions relating to the appointment of the Citizens Advisory Committee on Urban Renewal, see the resolution dated March 21, 1961, of record in the city manager's office.

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. Absence of city judge.

3-101. Absence of city judge. When the city judge is absent or unavailable to preside over the city court an acting city judge, designated in accordance with the provisions of art. XXII, § 1, of the charter, shall preside over the city court. (1972 Code, § 1-701)

¹Charter references
City court: art. XXII.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Disposition and report of fines, costs and forfeitures.

3-203. Disturbance of proceedings.

3-204. Trial and disposition of cases.

3-201. Maintenance of docket. The city judge shall keep or cause to be kept a court docket which shall include the following information: The name of the defendant, the nature of the offense, the date of the trial, the findings of the court, the amount and date of payment of fines, costs and forfeitures and any other information deemed pertinent. (1972 Code, § 1-702)

3-202. Disposition and report of fines, costs and forfeitures. The city manager shall designate some city employee to collect and pay over daily to the director of finance all fines, costs and forfeitures levied by the city court. At the end of each month such collector shall submit to the governing body a report accounting for the collection or non-collection of all fines and costs imposed by the court during the current month and to date for the current fiscal year. (1972 Code, § 1-708)

3-203. 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. (1972 Code, § 1-709)

3-204. 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 when the city court is in session unless by reason of drunkenness or other incapacity such alleged violator is not in a proper condition or is not able to appear before the court. (1972 Code, § 1-705)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-301. Issuance of summonses.¹ When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons, ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1972 Code, § 1-703)

3-302. 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. (1972 Code, § 1-704)

¹Municipal code reference

Issuance of citations in lieu of arrest by public officer in traffic cases: title 15, chapter 7.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeal bond, conditions and forms.

3-401. Appeal bond, conditions and forms. An appeal bond in any case shall be in the sum of \$500.00 and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1972 Code, § 1-707, modified)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. PERSONNEL RULES AND REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this municipality to provide for all eligible employees and officials of the municipality, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the municipality shall take such action as may be required by applicable state and federal laws or regulations. (1972 Code, § 1-901)

4-102. Necessary agreements to be executed.¹ The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as

¹Ordinance No. 581, adopted on July 3, 1979, provides that: "The following sentence is hereby added to and made a part of an emergency ordinance Section 7 passed December 15, 1951: `Acting under the authority of Section 2 of said emergency ordinance the Mayor of the City of Athens is hereby directed to amend the social security agreement between the Old Age & Survivors Insurance Agency, State of Tennessee, and the City of Athens to exclude services of election officials and election workers if the remuneration paid in a calendar year is less than \$100.00 which is to be effective not earlier than the last day of the calendar quarter in which a modification to the Federal agreement excluding such service is submitted to the Federal Social Security Administration pursuant to provisions of Federal Law."

agent or agency, to secure coverage of employees and officials as provided in the preceding section as of January 1, 1951. (1972 Code, § 1-902)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1972 Code, § 1-903)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1972 Code, § 1-904)

4-105. Records and reports to be made. The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1972 Code, § 1-905)

CHAPTER 2

PERSONNEL RULES AND REGULATIONS

SECTION

4-201. Personnel rules and regulations.

4-201. Personnel rules and regulations. All municipal officers and employees of the city except those operating under the jurisdiction of a school, utility, or other separate board or commission shall be governed by applicable provisions of the state law, the city's charter and code, and such rules and regulations as the city council may adopt by resolution. (1972 Code, § 1-1001)

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 section shall provide authority for establishing and administering the occupational safety and health program for the employees of the City of Athens, Tennessee. (1972 Code, § 1-1401, as replaced by Ord. #912, June 2003, and Ord. #989, July 2010)

4-302. Purpose. The City of Athens, Tennessee, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees, 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 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) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee 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 state commissioner of labor and workforce development with regard to the adequacy of the form and content of records.
- (5) Consult with the state 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, 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. (1972 Code, § 1-1402, as amended by Ord. #872, Dec. 2000, and replaced by Ord. #912, June 2003, and Ord. #989, July 2010)

4-303. Coverage. The provisions of the occupational safety and health program for the employees of the City of Athens, Tennessee shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Athens, Tennessee whether part-time or full-time, seasonal or permanent. These provisions exclude any employee, department, commission, board, division, or other agency of the City of Athens School System. (1972 Code, § 1-1403, as replaced by Ord. #912, June 2003, and Ord. #989, July 2010)

4-304. Standards authorized. The occupational safety and health standards adopted by the City of Athens, Tennessee are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (as added by Ord. #912, June 2003, and replaced by Ord. #989, July 2010)

4-305. Variances from standards authorized. The City of Athens, Tennessee may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Athens, Tennessee shall notify or serve notice to 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 as designated by the City of Athens, Tennessee shall be deemed sufficient notice to employees. (as added by Ord. #912, June 2003, and replaced by Ord. #989, July 2010)

4-306. Administration. For the purposes of this chapter, the city manager is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the City of Athens, Tennessee. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #912, June 2003, and replaced by Ord. #989, July 2010)

4-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Athens, Tennessee. (as added by Ord. #912, June 2003, and replaced by Ord. #989, July 2010)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. BUSINESS TAXES.
4. WHOLESALE BEER TAX.
5. LOCAL SALES TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depositories for city funds.

5-101. Official depositories for city funds. Depositories for city funds include the Local Government Investment Pool administered by the State of Tennessee and any financial institution meeting the guidelines as set forth by the State of Tennessee. (1972 Code, § 6-601, as amended by Ord. #788, April 1994, and Ord. #861, Sept. 1999, and replaced by Ord. #917, April 2004)

¹Charter references

Audits: art. V, §§ 16 and 17 and art. XII, § 3.

Expenditure of money: art. III, § 1(8), art. IX, § 2(i), art. XII, §§ 3, 4, 5, and 6, and art. XVII.

Purchasing: art. IX, § 2(h), art. XVII, § 4, and art. XXIII.

Special assessments: art. III, §§ 1(3), (17) and (18).

Taxes: art. III, §§ 1(1), (2), (21), (31) and (33), art. XI, art. XII, § 2, art. XIII, art. XIV, art. XX, § 10, and art. XXI, § 8(e).

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable.¹ Taxes levied by the city against real property shall become due and payable annually on October 1. (1972 Code, § 6-101)

5-202. When delinquent--penalty and interest.² All real property taxes shall become delinquent on such date and shall be subject to such penalties as are prescribed and authorized in art. XI, § 5 of the charter.³ (1972 Code, § 6-102)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

CHAPTER 3

BUSINESS TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. The taxes provided for in Chapter 387 of the Public Acts of 1971 (Tennessee Code Annotated, § 67-4-701, et seq.), known as the Business Tax Act, are hereby enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on in the City of Athens, Tennessee, at the rates and in the manner prescribed by the said act. (1972 Code, § 6-201, modified)

5-302. License required. No person shall exercise any taxed privilege within the city without a currently effective privilege license, which shall be issued by the director of finance to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1972 Code, § 6-202)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The director of finance 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 6.¹ (1972 Code, § 6-301)

¹State law reference

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

CHAPTER 5

LOCAL SALES TAX

SECTION

- 5-501. Tax levied.
5-502. When collection to begin.
5-503. State to collect for city.
5-504. Suits for recovery of tax illegally assessed.
5-505. Copy of ordinance to be furnished to state and published.

5-501. Tax levied. As authorized by Tennessee Code Annotated, § 67-6-701 as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailer's Sales Tax Act under Tennessee Code Annotated, title 67, chapter 6 as the same may be amended, which are exercised in the City of Athens, Tennessee. The tax is levied on all such privileges at a rate of two-ninths of the rates levied in the Retailer's Sales Tax Act, Tennessee Code Annotated, title 67, chapter 6 as amended, so long as the general state rate continues at 4.5 per cent, and at one-third of the state rates if and when the general state rate is reduced to 3 per cent. Provided with respect to industrial and farm machinery as defined in Tennessee Code Annotated, § 67-6-102(8) and (12), the tax thereon is imposed at the rate of one-third (1/3) of 1%. Provided further, the tax shall not exceed \$5.00 on the sale or use of any single article of personal property, and there is excepted from the tax levied by this ordinance the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil, so long as such exception is required by state law. Penalties and interest for delinquencies shall be the same as provided in Tennessee Code Annotated, § 67-6-516. (1972 Code, § 6-401)

5-502. When collection to begin. If a majority of those voting in the election required by Tennessee Code Annotated, § 67-6-706,¹ vote for the ordinance, collection of the tax levied by this ordinance shall begin on the first day of the month occurring 30 or more days after the Election Commission makes its official canvass of the election returns. (1972 Code, § 6-402)

5-503. State to collect for city. It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidenced by Local Option Sales and Use Tax Rules and Regulations heretofore promulgated by the department of revenue, the department shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected in

¹This ordinance was approved by the voters on June 27, 1977.

accordance with rules and regulations promulgated by said department. The mayor is hereby authorized to contract with the department of revenue for the collection of the tax by the department, and to provide in said contract that the department may deduct from the tax collected, a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (1972 Code, § 6-403)

5-504. Suits for recovery of tax illegally assessed. In the event the tax is collected by the department of revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the Mayor of the City of Athens, Tennessee. (1972 Code, § 6-404)

5-505. Copy of ordinance to be furnished to state and published. A certified copy of this ordinance shall be transmitted to the said department of revenue by the city manager forthwith and shall be published one time in a newspaper of general circulation in Athens, Tennessee, prior to the election called for in § 5-502 hereof. (1972 Code, § 6-405)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.
2. ATHENS POLICE RESERVE.

CHAPTER 1

POLICE¹ AND ARREST²

SECTION

- 6-101. Police chief.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Police department records.

6-101. Police chief. The chief of police shall be appointed by and serve at the will of the city manager. He shall have general supervision over the police department and shall be responsible for the efficiency thereof. (1972 Code, § 1-501)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1972 Code, § 1-502)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the city council shall authorize and shall carry a service pistol and other non-lethal weapons at all times while on duty unless

¹Charter references

General provisions with respect to police department: art. XIX.
Police department established: art. XVIII, § 1.

²Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

otherwise expressly directed by the chief for a special assignment. (1972 Code, § 1-503, modified)

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

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1972 Code, § 1-504)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1972 Code, § 1-505)

6-106. Police department records. Based on retention schedule as mandated by law, the police department shall keep a comprehensive and detailed record showing:

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1972 Code, § 1-507, modified)

CHAPTER 2

ATHENS POLICE RESERVE

SECTION

- 6-201. Designation, membership, and employee status.
- 6-202. Diminishing or increasing the force.
- 6-203. Chief of police to have control.
- 6-204. Method of appointment and qualifications of members.
- 6-205. Removal from membership or resignation.
- 6-206. Summary dismissal of members.
- 6-207. Uniforms, badges, and insignia designated by chief.
- 6-208. Identification cards, etc.
- 6-209. Duties.
- 6-210. Power and authority of members.
- 6-211. False personation.
- 6-212. Compensation.

6-201. Designation, membership, and employee status. The auxiliary police force shall be designated as the "Athens Police Reserve." It shall be composed of a voluntary membership of not to exceed twenty-five (25) members headed by the chief of police, City of Athens, hereinafter designated as the "Chief." The members shall be part-time employees of the City of Athens Police Department and shall be included in workmen's compensation and liability insurance provided for employees of the City of Athens. (1972 Code, § 1-601)

6-202. Diminishing or increasing the force. The chief may by order diminish or expand the membership of the Athens Police Reserve, as may in his judgment be required within the limits herein established. (1972 Code, § 1-602)

6-203. Chief of police to have control. The chief shall have complete authority, control, and command over the Athens Police Reserve, subject to the provisions of this chapter. He may appoint as members thereof any person he may consider qualified and may reject any application for membership. He shall provide for the training of candidates for membership and for the further training of members. (1972 Code, § 1-603)

6-204. Method of appointment and qualifications of members. No person shall be considered a member of the Athens Police Reserve until he has been duly appointed by the chief, registered on a roster kept by the chief, and until he has taken the oath provided for officers of the Athens Police Department and has been provided by the city with the bond provided for by law.

Persons eligible for new membership shall be no less than twenty-one (21) years of age and shall be citizens of the United States, residents of McMinn

County, Tennessee, and of excellent character and reputation. They shall be in excellent physical condition, mentally stable, and suffer from no ailment or disability which would limit or prevent their engaging in strenuous exercise or the use of firearms. Restrictions and regulations as to age and physical condition may be waived only in the discretion of the chief in those cases involving special qualifications, abilities, and aptitude in the best interest, of the police department. (1972 Code, § 1-604, modified)

6-205. Removal from membership or resignation. Membership of any person may be terminated at the will and pleasure of the chief. Any member may resign from the Athens Police Reserve at any time, but it shall be his duty to notify the chief of his resignation. (1972 Code, § 1-605)

6-206. Summary dismissal of members. In addition to the penalties provided by law, any violation of law under color of the performance of his duties as a member of the Athens Police Reserve and any breach of the rules and regulations established by the chief shall subject any member to summary dismissal and the fact thereof may be published by order of the chief. (1972 Code, § 1-606)

6-207. Uniforms, badges, and insignia designated by chief. The chief shall prescribe the uniforms, badges, and insignia for members of the Athens Police Reserve and the manner in which the same shall be worn. The City of Athens will furnish uniforms at no expense to the members. (1972 Code, § 1-607, modified)

6-208. Identification cards, etc. An identification card and such other insignia or evidence of identity as the chief may prescribe shall be issued to each member who must carry such identification at all times while on duty and surrender them upon the termination of his membership. (1972 Code, § 1-608)

6-209. Duties. The duties of the Athens Police Reserve, subject at all times to the direction, supervision, and control of the chief, shall be to assist the regular members of the police department in enforcement of the law and in the maintenance of peace and order at such times provided for and designated by the chief. The chief shall establish rules and regulations to govern the Athens Police Reserve, to fix the specific duties of its members, and to provide for the maintenance of discipline. He may change such orders from time to time. No member shall in any manner perform any act as a member of the Athens Police Reserve unless he is specifically designated for duty as such member at the time. The chief may prescribe duties other than those mentioned herein so long as they are not inconsistent with the provisions hereof. (1972 Code, § 1-609)

6-210. Power and authority of members. (1) Members of the Athens Police Reserve shall be authorized, while on official duty as members of said reserve, to carry firearms in accordance with the provisions of Tennessee Code Annotated, § 39-6-1702 and as prescribed by the rules and regulations as set forth by the chief.

(2) Members of the Athens Police Reserve, while on official duty as members thereof, shall have the same arrest powers as regular officers of the Athens Police Department. (1972 Code, § 1-610)

6-211. False personation. It shall be a misdemeanor for any person to wear an Athens Police Reserve uniform, badge or insignia, or to carry or display an identification card, or otherwise to deceitfully represent himself to be a member of, or connected with, the Athens Police Reserve, unless he is in fact a member thereof in good standing. (1972 Code, § 1-611)

6-212. Compensation. Where not fixed by statute, ordinance, or resolution of the Council of the City of Athens, the compensation, salary, or wages of members of the Athens Police Reserve are to be fixed at the rate of one dollar (\$1.00) per year. (1972 Code, § 1-612)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be as follows:

(1) Fire District No. 1 shall be and include all the areas within the corporate limits which are zoned for general business.

(2) Fire District No. 2 shall be and include all areas within the corporate limits not zoned for general business.

(3) Elsewhere in this code or the codes adopted by reference, when the "fire limits" are referred to it shall be deemed to be a reference to Fire District No. 1. (1972 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

7-201. Fire code adopted.

7-202. Enforcement.

7-203. Definition of "municipality."

7-204. Modifications.

7-205. Appeals.

7-206. Violations.

7-201. Fire code adopted. Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Athens, the International Fire Code,² 2009 edition, as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling with the corporate limits. (1972 Code, § 7-201, as amended by Ord. #854, April 1999, and Ord. #869, § 1, May 2000, and replaced by Ord. #991, Aug. 2010)

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. (1972 Code, § 7-202, as replaced by Ord. #991, Aug. 2010)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Athens. (1972 Code, § 7-203, as replaced by Ord. #991, Aug. 2010)

7-204. Modifications. The chief of the fire department shall have the power to modify any of the provisions of the fire code upon application in writing

¹Municipal code reference

Building, utility and housing codes: title 12.

²Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101.

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 modifications when granted or allowed and the decision of the chief thereon shall be entered upon the records of the department and a signed copy shall be furnished to the applicant.

The fire code adopted in § 7-201 is hereby modified by requiring automatic sprinkler systems in future commercial, industrial, and residential occupancies having a gross floor area of ten thousand (10,000) square feet or greater and requiring an automatic sprinkler system in Hazards Production Material (HPM) facilities as defined by the adopted building code. All automatic sprinkler systems shall be designed by a licensed engineer or architect and shall conform to NFPA 13 requirements and to the building code sprinkler requirements. The sprinkler requirements shall be made a part of the plans and specifications submitted for approval and shall be installed by a State of Tennessee licensed automatic sprinkler system contractor. The City of Athens will not require sprinklers in one- and two-family residences with less than ten thousand (10,000) gross square feet. Sprinklers will be required in three (3) unit townhouses with five thousand (5,000) gross square feet or more and townhouses built with four (4) or more units regardless of square footage. (1972 Code, § 7-205, as amended by Ord. #824, § 1, Dec. 1996, and replaced by Ord. #991, Aug. 2010)

7-205. Appeals. Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city manager within thirty (30) days from the date of the decision appealed. (1972 Code, § 7-206, as replaced by Ord. #991, Aug. 2010)

7-206. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code hereby 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 fire chief or city manager or by a court of competent jurisdiction, with the time fixed herein. The application of a penalty under the general penalty clause for the city code shall not be held to prevent the enforced removal of prohibited conditions. (1972 Code, § 7-207, as replaced by Ord. #991, Aug. 2010)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. Chief to be assistant to state officer.
- 7-308. Destruction of property.
- 7-309. Police powers of firemen.
- 7-310. Deleted.

7-301. Establishment, equipment and membership. There is hereby established a fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of physically fit subordinate officers and firemen as the city manager shall appoint. (1972 Code, § 7-301)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property in case a fire does start.
- (3) To confine fires to the place 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. (1972 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1972 Code, § 7-303)

¹Municipal code reference

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

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on those matters to the city manager once each month and at the end of the year a detailed annual report shall be made. (1972 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the city manager. The city manager or 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. All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1972 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firemen and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1972 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of 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. (1972 Code, § 7-308)

7-308. Destruction of property. During the progress of any fire, the fire department may remove or destroy any property necessary to prevent the further spread of the fire. (1972 Code, § 7-309)

7-309. Police powers of firemen. Firemen shall have the same powers and authority as policemen of the city while going to, attending, and returning from fires and for the purpose of enforcing fire prevention regulations and protecting fire fighting apparatus, equipment and facilities. (1972 Code, § 7-310)

7-310. [Deleted.] (1972 Code, § 7-311, as deleted by Ord. #917, April 2004)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Equipment to be used only within corporate limits.

7-401. Equipment to be used only within corporate limits. No equipment of the fire department shall be used for fighting any fire outside the corporate limits except pursuant to a mutual aid agreement entered into with another municipal corporation. (1972 Code, § 7-307)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Fireworks defined.
- 7-502. Manufacture, sale and discharge of fireworks.
- 7-503. Bond for fireworks display required.
- 7-504. Disposal of unfired fireworks.
- 7-505. Exceptions.
- 7-506. Seizure of fireworks.

7-501. Fireworks defined. "Fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times. (1976 Code, § 7-401)

7-502. Manufacture, sale and discharge of fireworks. (1) The manufacture of fireworks is prohibited within the city.

(2) Except as hereinafter provided it shall be unlawful for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided that the chief of the fire department shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations. Every such display shall be handled by a competent operator approved by the chiefs of the police and fire departments of the municipality, and shall be of such a character, and so located, discharged or fired as in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or persons.

(3) Application for permits shall be made in writing at least fifteen days in advance of the date of the display. After such privilege shall have been granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. (1972 Code, § 7-402)

7-503. Bond for fireworks display required. The permittee shall furnish a bond in an amount deemed adequate by the chief of the fire department for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, his agents, employees or subcontractors. (1976 Code, § 7-403)

7-504. Disposal of unfired fireworks. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining. (1976 Code, § 7-404)

7-505. Exceptions. Nothing in this chapter shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. (1976 Code, § 7-405)

7-506. Seizure of fireworks. The chief of the fire department or any policemen having knowledge thereof shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this chapter. (1976 Code, § 7-406)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. General prohibition regarding alcohol and definition of term "minor."
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the director of finance.
- 8-105. Sign restriction.
- 8-106. Responsibilities of licensee.
- 8-107. Unregulated and unlicensed possession and consumption of beer and alcoholic beverages.

8-101. General prohibition regarding alcohol and definition of term "minor." Except as authorized by applicable laws and/or ordinances, it shall be unlawful for any person or legal entity, regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight pursuant to Tennessee Code Annotated, § 57-5-101.

For purposes of any chapter within the Athens City Code, the term "minor" means any person who has not attained eighteen (18) years of age, except that within any chapter of the Athens City Code which addresses, deals with, or relates to any form of alcoholic beverage, whether beer, liquor, wine, or otherwise, the term "minor" means any person who has not attained twenty-one (21) years of age. (1972 Code, § 2-101, as amended by Ord. #834, Sept. 1997, and replaced by Ord. #873, Jan. 2001, and Ord. #1011, Oct. 2012)

¹State law reference

Tennessee Code Annotated, title 57.

8-102. Consumption of alcoholic beverages on premises. Title 57, Chapter 4, inclusive of the Tennessee Code Annotated and any amendment thereto 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 Athens, Tennessee. It is the intent of the city council that the said Title 57, Chapter 4, inclusive of the Tennessee Code Annotated and any amendment thereto, shall be effective in Athens, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #873, Jan. 2001)

8-103. 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, and any amendment thereto, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated § 57-4-301, for the City of Athens General Fund to be paid annually as provided in this chapter) upon any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., engaging in the business of selling at retail in the City of Athens alcoholic beverages for consumption on the premises where sold. (as added by Ord. #873, Jan. 2001)

8-104. Annual privilege tax to be paid to the director of finance. Any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Athens shall remit annually to the director of finance the appropriate tax described in § 8-103. Such payment 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 or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., failing to make payment of the appropriate tax when due shall be subject to any penalty provided by law, including revocation of the privilege of selling alcoholic beverages for consumption on the premises in the City of Athens. (as added by Ord. #873, Jan. 2001)

8-105. Sign restrictions. Notwithstanding any provision in Title 57, Chapter 4 of the Tennessee Code Annotated, no outdoor sign, advertisement or display that advertises alcoholic beverages may be erected or maintained on or about the property from which alcoholic beverages for consumption on the premises is made other than one sign, advertisement or display which makes reference to the fact that the establishment sells alcoholic beverages for consumption on the premises but does not use brand names, pictures, numbers, prices or diagrams relating to any particular type or brand of alcoholic beverages. (as added by Ord. #873, Jan. 2001)

8-106. Responsibilities of licensee. Each licensee must furnish the chief of police with a list of the names, date of birth, and social security number of all persons to be employed in the place where alcoholic beverages are to be sold and must inform the chief of police within 72 hours of employment as to the names, date of birth, and social security number of any persons employed after such list has been originally submitted. The list will be maintained by the police department at city hall. Employee shall be defined in this chapter as any person engaged in the operations of the business on a regular basis or who receives compensation from the business. Licensee shall be deemed responsible for the actions of all employees or agents in regard to state and local legislation related to alcoholic beverages, and a violation thereof by an employee or agent shall subject the licensee to appropriate sanction, including revocation or suspension of any license. Prior to January 1 of each year, it is the responsibility of permittee to pick up copies of any new legislation regulating the sale of alcoholic beverages. It is also the responsibility of the licensee to immediately notify the chief of police of any convictions or pleas for unlawful activity as defined in § 8-213 of the Athens Municipal Code. (as added by Ord. #873, Jan. 2001)

8-107. Unregulated and unlicensed possession and consumption of beer and alcoholic beverages. This section shall make the unregulated and unlicensed possession and consumption of beer and alcoholic beverages in a business in the city unlawful.

(1) For the purposes of this section, the term “beer” shall mean all beers, ales, and other malt liquors having an alcoholic content of not more than five (5) percent by weight. For purposes of this section, the term “alcoholic beverages” shall mean alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being other than patent medicine or beer where the latter contains an alcoholic content of five (5) percent or less by weight. For the purposes of this section, an “open container” is a container, which has any opening through which its contents may pass in order to be consumed by any person. For the purposes of this section, “hotel” is as defined in Tennessee Code Annotated, § 67-4-1401, being any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(2) It is unlawful for any person to consume beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open for business in the city.

(3) It is unlawful for any person to possess an open container of beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open for business.

(4) It is unlawful for any owner of a business open for business in the city, or the owner's agent or employee, knowingly or intentionally to permit any person to possess an open alcoholic container of beer or an alcoholic beverage not lawfully sold by the business or to consume beer or an alcoholic beverage not lawfully sold by the business on the premises of any business. For the purposes of this section, notice to an agent or employee of a business shall constitute notice to the owner of the business.

(5) This section does not prohibit the sale of beer or alcoholic beverages by any business which possesses a valid beer permit or alcoholic beverage license during such hours authorized by the laws of the state and the ordinances of the city nor does this section prohibit any other conduct permitted under the laws of the state or the ordinances of the city. This section does not prohibit the owner of a business who resides on the premises of the business from consuming beer or alcoholic beverages at any time on the premises or from possessing an open container of beer or alcoholic beverages at any time on the premises. This section does not prohibit the consumption of beer or alcoholic beverages or the possession of an open container of beer or alcoholic beverages by any person within the confines of the person's individual room in any hotel within the city.

(6) The provisions of this section are severable. If any provision of this section or its application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this section which can be given effect without the invalid provisions or application. (as added by Ord. #888, Dec. 2001)

CHAPTER 2

BEER¹

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. Responsibilities of permittee.
- 8-209. Beer permits shall be restrictive.
- 8-210. Privilege tax.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders, agents, servants, employees or other persons engaged in the sale of beer.
- 8-214. Employees required to have identification and proof of employment.
- 8-215. Revocation and suspension of beer permits.
- 8-216. Civil penalty in lieu of suspension.
- 8-217. Loss of clerk's certification for sale to minor.
- 8-218. Violations.
- 8-219. Possession or consumption of alcoholic beverages, wine, and/or beer on certain property prohibited.
- 8-220. Sign, advertisement and display restrictions.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the city council. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1972 Code, § 2-201, as replaced by Ord. #873, Jan. 2001)

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 following each regular meeting of the city council at the city hall whenever there is business to come before the beer board. An adjourned or special meeting of the beer board may be called by its chairman provided reasonable notice thereof is given to each

¹State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

board member of the board and there is a reasonable and just cause for such an additional session. Reasonable public notice shall likewise be given for any adjourned or special meeting. (1972 Code, § 2-202, as replaced by Ord. #873, Jan. 2001, and amended by Ord. #925, Jan. 2005)

8-203. Record of beer board proceedings to be kept. 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 and Tennessee law, to include the issuance, suspension, and revocation of any license. The beer board shall also regulate as permitted by law matters related to any other alcoholic beverage whether defined as an intoxicating liquor or otherwise. (1972 Code, § 2-203, as replaced by Ord. #873, Jan. 2001, and Ord. #963, Nov. 2007)

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. (1972 Code, § 2-204, as replaced by Ord. #873, Jan. 2001)

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 and Tennessee law, to include the issuance, suspension, and revocation of any license. The beer board shall also regulate as permitted by law matters related to any other alcoholic beverage whether defined as an intoxicating liquor or otherwise. (1972 Code, § 2-205, and replaced by Ord. #963, Nov. 2007)

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 five percent (5%) by weight or any other beverage of alcoholic content as described in Tennessee Code Annotated, § 57-5-101. (1972 Code, § 2-206, as amended by Ord. #834, Sept. 1997, and replaced by Ord. #873, Jan. 2001)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc. 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 authorize and furnish and shall be filed in the city manager's office, accompanied by a non-refundable application fee of two

hundred and fifty dollars (\$250). Said fee shall be in the form of a cashier's check payable to the City of Athens. Each applicant, and if an entity, a person with ownership interest in the entity, must be a person of good moral character and certify that the applicant has not been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or any crime involving moral turpitude within the past five (5) years. Further, the applicant must certify that the applicant has read and is familiar with the provisions of this chapter. Upon receipt of the notarized application, the city manager's office will schedule the presentation of the application to the beer board and will notify the permittee or licensee of the date and time of such meeting. (Ord. #784, Nov. 1993, as replaced by Ord. #873, Jan. 2001)

8-208. Responsibilities of permittee. Each licensee must furnish the chief of police with a list of the names, date of birth, and social security number of all persons to be employed in the place where beer is to be sold and must inform the chief of police within 72 hours of employment as to the names, date of birth, and social security number of any persons employed after such list has been originally submitted. The list will be maintained by the police department at city hall. Employee shall be defined in this chapter as any person engaged in the operations of the business on a regular basis or who receives compensation from the business. Licensee shall be deemed responsible for the actions of all employees or agents in regard to state and local legislation related to beer, and a violation thereof by an employee or agent shall subject the licensee to appropriate sanction, including revocation or suspension of any license. Prior to January 1 of each year, it is the responsibility of permittee to pick up copies of any new legislation regulating the sale of beer. It is also the responsibility of the licensee to immediately notify the chief of police of any convictions or pleas for unlawful activity as defined in § 8-213 of the Athens Municipal Code. (as added by Ord. #873, Jan. 2001)

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 the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by permit or license. It shall likewise be unlawful for the licensee not to comply with any and all express restrictions or conditions which may be written into the permit or license by the beer board. (1972 Code, § 2-208, as replaced by Ord. #873, Jan. 2001)

8-210. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). To sustain a valid permit, any licensee shall remit the

tax the 1st day of January of each year thereafter to the City of Athens, 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. (Ord. #784, Nov. 1993, as replaced by Ord. #873, Jan. 2001)

8-211. Interference with public health, safety and morals prohibited.

(1) No permit or license authorizing the storage, sale, distribution or manufacturing 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 storage, sale, or manufacture of beer to a permit holder within a minimum distance as listed below from any building

(a) Used as a church, provided a church service is held at the premises at least on one day of each week; or

(b) Used as a school, provided the school is operated by a public school system of the City of Athens, Tennessee or McMinn County, Tennessee, or is a private school, and such school is licensed and accredited by the State of Tennessee to provide and is providing a kindergarten, elementary or secondary education to students at the building; or

(c) Used by the City of Athens or McMinn County to operate city or county government or the city or county public school system or public library.

(2) The minimum distance requirement for the various types of permit holders is as follows:

(a) Restaurant - 300 feet

(b) Grocery store (10,000 square feet or more) - 300 feet

(c) Grocery store (under 10,000 square feet) - 500 feet

(d) Package store - 500 feet

(e) [Deleted.]

(f) Package store - 500 feet

(g) Caterer - 300 feet.

(h) Golf course - 300 feet.

The distance shall be measured in a straight line between the nearest corner of the building proposed to sell, store or manufacture beer and the nearest corner of the building from which there must be a minimum distance. The above minimum distance requirement from certain buildings shall not be applicable with respect to the building of a restaurant permit holder located within the downtown business district which is defined as that area within the interior of the boundaries of Baxter Street, Green Street, College Street, Hill

Street and Park Street as shown on the map of the City of Athens attached hereto and incorporated herein by reference.

These changes as listed above shall not affect those businesses which have valid permits on the date of the passage of this chapter, and further would not affect said locations if they should change ownership in the future.

(3) The number of beer permits permitted in the City of Athens, Tennessee, and the classification thereof are as follows:

(a) Restaurants. There shall be no limitation on the number of beer permits issued to restaurants. A restaurant shall be defined as an establishment having a minimum indoor seating capacity of thirty (30), whose principal business is serving food for consumption on premises. A restaurant eligible for a beer permit shall not have monthly gross beer sales greater than twenty-five percent (25%) of the monthly gross sales of food. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar year has gross beer sales greater than twenty-five percent (25%) of its gross food sales shall have its beer permit revoked. Food sales for the purpose of this section shall include the sale of food and non-alcoholic beverages or drinks. Food sales for the purpose of this section shall not include the sale of any type of alcoholic beverage, including, but not limited to, beer, wine, or liquor.

"On premises" is defined as any portion of the building interior and any deck, patio, porch or other outdoor serving area that:

(i) Is only accessible from the interior of the principal structure housing the restaurant; and

(ii) Is fully enclosed by a permanent fence that is attached to the principal structure housing the restaurant with the fence or wall made of brick, stone, wrought iron, or exterior wood panels with a minimum height of forty-eight inches (48") with maximum spaces between rods, spindles or boards of four inches (4") and such that a four inch (4") sphere cannot pass between any rods, spindles or boards. If an emergency exit is required by any regulation, ordinance or law within the fence or wall it shall be clearly marked as an emergency exit only and used only for this purpose. The emergency exit shall be equipped with an alarm which emits an audible sound when the exit gate or door is opened. The fence or wall shall be permanently affixed to the ground per building official's recommendation and approval. Any deck, patio, porch or other outdoor serving area and the fence or wall shall comply with any applicable provisions of the building code.

Prior to any existing or new restaurant adding an outdoor dining area wherein beer may be sold for consumption, the owner of the restaurant and the permit holder shall submit a site plan for the outdoor dining area which meets the requirements of section 4.17 of the Athens Zoning Code to the Athens Regional Municipal Planning Commission for

approval. The site plan shall show that the new outdoor serving area meets all requirements of the zoning district it lies within, to include, but not limited to parking and land coverage requirements. The site plan shall show that the new outdoor serving area meets all requirements of the landscaping and storm water ordinances.

(b) Grocery (food stores). There shall be no limitation on the number of beer permits issued to grocery (food stores). Grocery (food stores) shall be defined as establishments with the dollar value of their inventory of beer at twenty percent (20%) or less of the dollar value of the total inventory. Beer shall not be sold for consumption on the premises of grocery (food) stores.

(c) [Deleted.]¹

(d) Package beer stores (off premises). These are establishments where beer is sold to be consumed off the premises. There shall be one license for every one thousand (1,000) population according to the latest official census of the City of Athens. Beer shall not be consumed on the premises of these establishments.

(e) Wholesaler/distribution (off premises). Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer shall not be sold or consumed on the wholesaler's premises.

(f) Caterers. There shall be no limitation on the number of beer permits issued to caterers. A caterer is defined as a business engaged in offering food and beverage service for a fee at various locations, which

(i) Operates a permanent catering hall on an exclusive basis,

(ii) Has a complete and adequate commercial kitchen facility, and

(iii) Is licensed as a caterer by the Tennessee Department of Health.

The permit shall authorize the caterer to sell beer on the premises of the caterer and at such other sites as the caterer has given advanced notice to the Athens Beer Board through the city manager for the City of Athens, Tennessee. With such notice, the off premises site shall be considered to be within the premises of the caterer for the purposes of

¹The amendments to § 8-211 contained in subsection (3)(iii) above shall not affect the holder of any beer permit pursuant to the taverns classification as of the effective date of this Ord. #925, Jan. 18, 2005. Any holder of a tavern beer permit shall be entitled to keep and retain this permit until such time as it is surrendered, revoked, or otherwise terminated as provided by any applicable rule, regulation, ordinance or law of the City of Athens, Tennessee, or the State of Tennessee.

this chapter. The permit shall not authorize and the caterer shall not sell beer at a site within three hundred (300) feet of a building from which there must be a minimum distance as provided elsewhere herein. In all cases, beer may be sold for consumption only at the permanent catering hall of the caterer or at the site for which the caterer has given advanced notice to the Athens Beer Board.

(g) Golf Course. There shall be no limitation on the number of beer permits issued to golf courses. Beer may be sold for consumption on the premises only with the premises defined as any clubhouse, pro shop, restaurant, or the playing course itself. No consumption shall be permitted in or on the parking lot.

A golf course is defined as a recreational facility developed for the primary sport of golf, not to be less than nine (9) holes, managed and regularly maintained by the operator of the facility and located on a minimum of fifty (50) contiguous acres. To qualify as a golf course hereunder, receipts from the sales of beer, shall not exceed thirty (30%) of the total gross receipts for two (2) consecutive months or for any three (3) months in any calendar year for the business establishment.

Any beer consumed on the premises of the golf course, whether within any building or on the playing course itself, must be purchased at the golf course from the operator hereof.

As previously stated herein, any beer on the premises of the permit holder must be sold by the permit holder and consumed on the premises. Beer may be consumed within any building on the premises or the playing course itself. The minimum distance requirement from certain buildings as provided elsewhere herein shall be applicable to a golf course permit holder with the distance measured as required from the nearest corner of any building on the premises where beer may be consumed and the nearest corner of the building from which there must be a minimum distance. In the event the permit holder has a common property line with the owner of any building from which there must be a minimum distance, the permit holder shall provide a fence along that property line with a height not less than six (6) feet and visible space between boards not less than one and one-quarter (1 1/4") inch. A planted natural tree buffer or the use of elevated mounds shall serve as an acceptable substitute for the fence. In accordance with the zoning ordinance of the City of Athens, a buffer strip shall be defined as "A greenbelt planted strip thirty (30) feet in width." Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than fifteen (15) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart within the row and which grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to not less than ten (10) feet."

In the event any part of the playing course is within three hundred (300) feet from the nearest corner of a building from which there must be a minimum distance as provided elsewhere herein, that part of the playing course must have along or near its property line the same fencing, planted buffer strip, or elevated mounds, as required above, for that length of the playing course within three hundred (300) feet of the nearest corner of the building of concern.

(h) Club. There shall be no limitation on the number of beer permits issued to clubs as defined hereafter. A club shall mean a non-profit association as defined and described in Tennessee Code Annotated, § 57-4-102(7) (A) and (B), in effect upon final passage of this ordinance. Before receiving a beer permit, an applicant must have received a club license issued by the alcoholic beverage commission to serve alcoholic beverages containing more than five percent (5%) of alcohol by weight. After an applicant receives a beer permit, in the event the association no longer meets the definition of a club, the beer permit may be revoked. In addition to any other acts or conduct prohibited in the Athens City Code or any general statute of the State of Tennessee, the acts or conduct described in Tennessee Code Annotated, §§ 57-4-204(b)(1)(2)(3)(4) and (d)(1)(A)(B)(C)(D) are prohibited on the premises of a licensed club.

(i) Hotels. There shall be no limitation on the number of beer permits issued to hotels as defined hereafter. A hotel for the purpose of holding a beer permit is defined as a hotel located within a radius of one (1) mile from the intersection of Highway 30 and the entrance ramp to the northbound lanes of Interstate 75 which has available for occupancy sixty (60) or more interior corridor rooms for paid lodging by guests on a short-term basis, not to exceed seven (7) consecutive days by a guest. The permit shall authorize the hotel to offer and provide beer to registered guests only, for consumption in a common area or designated meeting or conference room on the premises of the hotel between the hours of 4:00 P.M. and 8:00 P.M. during any day of the week.

This permit shall not authorize or allow a hotel to offer or provide beer for a charge or fee. This permit shall not authorize or allow a hotel to offer or provide beer to a guest of the hotel for consumption in the guest's rented room. The permit holder shall not allow any beer in the area or room where the holder is providing beer at no charge except for beer provided by the permit holder.

Each permit hereafter issued shall specify the classification of permit along with the kind of establishment as herein set forth. No beer sales other than the class designated shall be permitted except as stated herein, i.e., at establishments with permits allowing on the premises consumption, it will be legal for beer to be consumed on the premises only. No beer shall be sold for off the premises consumption by these establishments. Likewise, no on the

premises consumption will be legal where the establishment has been granted an off premises permit.

If the character of the establishment changes from the classification originally issued, the permittee will be required to obtain a new permit to conform to the type of establishment being operated by the permittee.

All beer permits now issued and outstanding will be classified and placed in its appropriate category, and the holders of said beer permits shall be so notified, along with a copy of this ordinance.

A package store shall be further defined to be an establishment whose primary business is the sale of beer. Gasoline stations shall be excluded from the above definition of primary business. (1972 Code, § 2-210, as amended by Ord. #823, Dec. 1996, replaced by Ord. #873, Jan. 2001, amended by Ord. #889, Jan. 2002, Ord. #909, March 2003, Ord. #908, April 2003, Ord. #925, Jan. 2005, and Ord. #926, Jan. 2005, replaced by Ord. #963, Nov. 2007, and amended by Ord. #980, June 2009, Ord. #987, May 2010, and Ord. #1011, Oct. 2012)

8-212. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person or entity with a person with greater than ten percent (10%) ownership interest who has been convicted for the unlawful possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or any crime involving moral turpitude within the past five (5) years. (1972 Code, § 2-211, as replaced by Ord. #873, Jan. 2001, and Ord. #963, Nov. 2007)

8-213. Prohibited conduct or activities by beer permit holders, agents, servants, employees or other persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, agent, servant, employee or other person working in an establishment that is permitted to sell beer to:

(1) Knowingly employ any person convicted for the unlawful possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past five (5) years.

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

(3) It shall be unlawful for any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) by weight within the corporate limits of Athens, Tennessee, between the hours of three o'clock (3:00) A.M. and eight o'clock (8:00) A.M. on weekdays and between the hours of three o'clock (3:00) A.M. and twelve o'clock (12:00) noon on Sunday. No such beverages shall be consumed or opened for consumption or about any premises where beer or other beverage with an alcoholic content not exceeding five percent (5%) of weight is sold within the

corporate limits of Athens, Tennessee, in either bottle, glass, or other container after three fifteen o'clock (3:15) A.M.

(4) Deliver beer to any purchaser or purchasers except during those hours set out in § 8-213(3) of this code.

(5) Sell intoxicating liquor as defined in Chapter 1 (§ 8-101) of this title, except in establishments that have a state-issued "liquor by the drink" license.

(6) Allow the possession of beer by any person, including permittee, within the permittee's place of business at a time when beer may not be legally sold. Such possession shall constitute evidence of an illegal sale.

(7) Allow any loud, unusual or obnoxious noises to emanate from the premises.

(8) Make or allow any sale of beer or any other alcoholic beverage, including an intoxicating liquor to a minor under the age of twenty-one (21) years.

(9) Allow any minor under twenty-one (21) years of age to loiter in or about the place of business. The term "loitering" within the meaning of this section shall mean "to be dilatory, to be slow in movement, to stand around, to spend time idly, to saunter, to delay, to idle, to linger, to lag behind." However, nothing in this section shall prohibit persons under the age of twenty-one from dining in establishments which have a beer permit but whose exclusive or primary business is the sale of food. But such establishments shall insure that all containers of alcoholic beverages, both open and closed, are not provided by customers, patrons, or any other persons, to persons under the age of twenty-one; shall immediately remove empty and partially empty containers of alcoholic beverages from the tables where persons under the age of 21 are seated unless accompanied by a parent or guardian and shall store all alcoholic beverages behind the bar or other proper storage place not ordinarily accessible to customers or patrons.

(10) Make or allow any sale of beer or any other alcoholic beverage, including an intoxicating liquor to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(11) Allow drunk or disreputable persons to loiter about the premises.

(12) Allow patrons to remain in the permittee's place of business longer than thirty (30) minutes past the time the permittee closes the place of business to the public.

(13) Any person who holds a permit shall continuously operate the business, and if any permit holder either voluntarily or involuntarily fails or refuses to carry on the business for a period of sixty (60) days, then said permit shall be revoked.

(14) With the exception of a beer license classified as a "restaurant," pool or billiard playing will not be permitted in the same room where beer is sold and/or consumed.

(15) Fail to provide and maintain separate sanitary toilet facilities for men and women at locations for consumption on premises.

(16) Proper and prominent signs will be displayed stating there shall be no form of gambling on or about the permittee's place of business.

(17) Sell beer at places where dancing allowed, except:

(a) No beer shall be sold on premises upon any part of which dancing is allowed, unless the cleared area provided for dancing shall contain at least one hundred forty-four (144) square feet of floor space. In computing the cleared area of floor space, only the compact floor area used primarily for dancing shall be counted. No area upon which counters, tables, chairs or obstructions are located, and no aisles used primarily for providing access to tables, shall be included for computing such cleared floor space.

(b) No beer shall be sold or consumed on premises upon any part of which dancing is allowed unless the part of such premises where such beverage is sold and consumed is separated from the other part of the building or premises where dancing is allowed by a partition or wall, railing or rope, or other definite means of separation, and such beverage shall not be sold or consumed upon the space set apart for dancing. (1972 Code, § 2-212, as amended by Ord. #801, Dec. 1994, modified, further amended by Ord. #823, §§ 2 and 3, Dec. 1997, and Ord. #834, § 2, 3 and 4, Sept. 1997, replaced by Ord. #873, Jan. 2001, and amended by Ord. #874, April 2001, Ord. #963, Nov. 2007, and Ord. #980, June 2009)

8-214. Employees required to have identification and proof of employment. Every employee employed by an establishment licensed under this chapter shall be required to have on his or her person at all times while upon the premises bona fide identification with his or her name, birth date, age, and description, and written proof of present employment furnished by the employer. Upon demand by any law enforcement officer, any and every employee shall be required to immediately produce such identification and proof of employment at any time the employee in question is on or about the premises. (as added by Ord. #873, Jan. 2001)

8-215. Revocation or suspension of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the license or permit holder or any agent, servant or employee of the permittee or licensee is guilty of violating the provisions of this chapter, any of the municipal codes of the City of Athens addressing the sale, manufacture, storage or distribution of beer, wine, liquor or any other alcoholic beverage or any state law regarding the sale, manufacture, storage or distribution of beer, wine, liquor or any other alcoholic beverage. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after a reasonable notice to all the known parties

in interest. Suspension or revocation proceedings may be initiated by the police chief, city manager or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years.

In the event a permit holder surrenders his license to sell beer, said surrender will become effective when formal action of the beer board is taken. Provided, however, the surrender of a permit or license shall not operate to prevent the beer board from revoking the permit or license for violation of this chapter or applicable state law occurring before such surrender.

Where a permit or license is revoked, no new license or permit shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date the revocation becomes final, unless the revocation is the result of a violation of § 8-213(13). If the revocation was the result of a violation of § 8-213(13) and the new license or permit request is from the permit or license holder whose permit or license was revoked, no new license or permit shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of ninety (90) days from the date the revocation becomes final. If the revocation was the result of a violation of § 8-213(13) and the new license or permit request is from a new owner of the same premises affected by the revocation of a permit or license, a new license or permit may be issued to the new owner without regard to the prior permit or license revocation, if the new owner is otherwise entitled to a license or permit. The applicant for a new license or permit shall not be considered a new owner if the applicant is a corporation, limited liability company or any other form of business in which the principal owner or owners also owned the corporation, limited liability company or other form of business whose permit or license was revoked the result of a violation of § 8-213(13).

No new permit shall be granted at any location where a case is pending in court for an infraction of the beer laws of the State of Tennessee or the City of Athens. (1972 Code, § 2-213, as replaced by Ord. #873, Jan. 2001, and

amended by Ord. #917, April 2004, replaced by Ord. #963, Nov. 2007, and amended by Ord. #980, Nov. 2009)

8-216. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) 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.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or 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.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #784, Nov. 1993, as replaced by Ord. #873, Jan. 2001, and replaced and renumbered by Ord. #963, Nov. 2007)

8-217. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, §57-5-606, sold beer to a minor, the beer board shall report the name of the Clerk to an alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #963, Nov. 2007)

8-218. Violations. Except as provided in 8-217, 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. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #963, Nov. 2007)

8-219. Possession or consumption of alcoholic beverages, wine, and/or beer on certain property prohibited. It shall be unlawful for any person to possess an opened container of any alcoholic beverage, wine and/or beer or to consume any alcoholic beverage, wine and/or beer on the premises of any retail beer sales outlet which does not have an on-premises permit; and it shall be unlawful, except at the conference center at the Athens Regional Park and any restricted area outside and near the conference center designated for the consumption of beer sold by a licensed caterer selling beer for a function at the conference center, to possess an opened container of any alcoholic beverage, wine and/or beer or to consume any alcoholic beverage, wine and/or beer on any public street, sidewalk, playground, park, school property or public parking lot within the municipal limits of the City of Athens. It shall also be unlawful to possess an opened container of any alcoholic beverage, wine and/or beer or to consume any alcoholic beverage, wine and/or beer on any privately owned parking lot held open by the owners for use by the public where twenty (20) or more vehicles may be parked (1972 Code, § 2-214, as replaced by Ord. #873, Jan. 2001, and Ord. #889, Jan. 2002, and replaced and renumbered Ord. #963, Nov. 2007)

8-220. Sign, advertisement and display restrictions. (1) No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement or display which makes reference to the fact that the establishment sells beers but does not use brand names, pictures, numbers, prices or diagrams relating to beer.

(2) Notwithstanding the above, for restaurant beer permit holders, there shall be no sign, advertisement or display which indicates that beer may be purchased at the premises, erected or maintained on the exterior of the premises or interior of the premises visible from the exterior.

(a) Beer and its containers located at or upon a bar or table within the premises shall not violate this prohibition provided the bar is located no closer than twenty feet (20') from any window facing a public street.

(b) Beer and its containers located at or upon any table or booth within the premises being consumed or having been consumed by customers shall not violate this provision.

(c) Beer and its containers within a lawful restaurant outdoor dining area as defined in § 8-211(3)(a) being consumed or having been consumed by customers shall not violate this provision. This exception shall not permit a bar or beer keg or other type of beer dispensing equipment or machine to be located in the outdoor dining area. This exception shall not permit the storage of beer bottles or cans for ultimate sale to customers in any area of the outdoor dining area. (as added by Ord. #834, Sept. 1996, replaced by Ord. #873, Jan. 2001, and Ord. #908,

Change 13, June 15, 2010

8-19

April 2003, replaced and renumbered Ord. #963, Nov. 2007, and replaced by Ord. #980, Nov. 2009)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. WRECKER AND TOWING SERVICE.
6. AMBULANCE SERVICE.
7. BUILDING TRADESMEN.
8. PRIVATE SECURITY AND FIRE ALARM BUSINESSES AND USERS.
9. CABLE TELEVISION.
10. ADULT ORIENTED ESTABLISHMENTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. "Going out of business sales."
9-102. "Rummage sales."
9-103. Carnivals, etc.
9-104. Persons exhibiting samples in motel rooms, etc., and taking orders for future delivery.

9-101. "Going out of business sales." It shall be unlawful for any person to falsely represent a sale as being a "going out of business sale." A "going out of business sale," for the purposes of this section, shall be a "fire sale," "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. (1972 Code, § 5-101)

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

9-102. "Rummage sales." Except as herein provided it shall be unlawful for any person to hold or conduct a "rummage sale" or expose for sale used clothing, shoes, other wearing apparel, or merchandise of any kind, unless such person is a regularly licensed retail merchant or peddler. This section shall not apply to bona fide religious, charitable or nonprofit organizations, nor to persons selling their own personal property unless such property was acquired primarily for resale rather than personal use. (1972 Code, § 5-102)

9-103. Carnivals, etc. It shall be unlawful for any person to hold or conduct any carnival, fair, circus, or other similar show or exhibition within the corporate limits except during reasonable hours. Noise shall be restricted as required by the city manager. (1972 Code, § 5-103, modified)

9-104. Persons exhibiting samples in motel rooms, etc., and taking orders for future delivery. (1) Any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, motel room, lodging house, apartment, shop, or any other place within the city for the purpose of exhibiting samples and taking orders for future delivery must meet the requirements as outlined in title 9, chapter 2 of this code. (1972 Code, § 5-105, as amended by Ord. #917, April 2004)

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

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.

9-201. 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:

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-702.

(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 McMinn 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"¹ 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 selling or offering to sell novelty items and similar goods in the area of the festival or parade.

¹State law reference

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).

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, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold.

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 Finance Department 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 Finance Department 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 Finance Department, the Finance Department 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 Finance Department 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 city council. The permit issued to any person or organization under this chapter may be suspended or revoked by the city council, 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 Finance Department 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.

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.

9-301. 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. (1972 Code, § 5-301)

9-302. Prerequisites for a permit. The office of finance shall 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. (1972 Code, § 5-302, as amended by Ord. #917, April 2004)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1972 Code, § 5-303)

Change 9, May 18, 2004

9-9.1

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. (1972 Code, § 5-304)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. Hours of operation regulated.

9-402. Minors to be kept out; exception.

9-401. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct or operate any place where pool tables or billiard tables are kept for public use or hire prior to 1:00 p.m. on Sunday or between the hours of midnight and 6:00 a.m. on all days. (1972 Code, § 5-501)

9-402. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1972 Code, § 5-502)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

WRECKER AND TOWING SERVICE

SECTION

- 9-501. Purpose.
- 9-502. Definitions.
- 9-503. Wrecker classifications.
- 9-504. Permit required.
- 9-505. Administrator.
- 9-506. Application for license.
- 9-507. Application for permit, application fee, expiration date, and renewal.
- 9-508. Investigation of applicant.
- 9-509. Required equipment and standards.
- 9-510. Notification required for vehicles held over thirty days.
- 9-511. Insurance.
- 9-512. Billing and charges for city approved wreckers.
- 9-513. Regulations for city approved wrecker.
- 9-514. Permit revocation/suspension.
- 9-515. Vehicles to be towed to place designated by owner-coercion at scene of accident prohibited.
- 9-516. Wreckers to go to scene of accident on call of owner or police only.
- 9-517. Solicitation of towing work by operator, etc., of towing car prohibited.
- 9-518. Solicitation of business by city employees.
- 9-519. Owner's request wreckers.

9-501. Purpose. The purpose of this chapter is:

- (1) To establish regulations and procedures to license wrecker operators for the purpose of providing a rotation call list procedure for those operators who apply to remove wrecked or disabled vehicles at the request or call of the Athens Police Department;
- (2) To further ensure the safe and efficient removal, storage and safekeeping of any and all transport vehicles being towed and placed into the custody of such wrecker services;
- (3) To utilize only those wrecker services whose equipment, procedures and services conform to the following rules and regulations. (1972 Code, § 5-601)

9-502. Definitions. For the purposes of this chapter the following words and phrases shall have the meaning respectively ascribed to them by this section:

- (1) "Wrecker or towing operator" is any person engaged in the business of or offering the services of a wrecker or towing service, whereby motor vehicles

are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designed for that purpose;

(2) "Storage" consists of storing a motor vehicle within a building or lot being used by the towing operator as their place of business;

(3) "City approved wrecker" is all wreckers or towing operators licensed by the city under this chapter who qualify to be placed on the rotation call list to respond to requests for towing of vehicles made by the city. The city does not assume any responsibility for negligence or damage caused by wrecker or towing operator. (1972 Code, § 5-602)

9-503. Wrecker classifications. For purposes of this chapter, wreckers are classified into four classes: Class A, Class B, Class C, and Class D, with minimum requirements for each classification as follows:

(1) Class A: For towing passenger cars, pick-up trucks, small trailers, etc.

(a) The tow truck chassis shall have a minimum manufacturers capacity of one (1) ton (10,000 pounds G.V.W.);

(b) Individual boom capacity of not less than four tons;

(c) Individual power winch pulling capacity of not less than four (4) tons;

(d) One hundred (100) feet or more of 3/8-inch cable or larger on each drum;

(e) Belt-type cradles, tow plate, or tow sling to pick up vehicles, with the cradle of the tow plate to be equipped with safety chain;

(f) Dollies or damage free wheel pick up.

(2) Class B: For towing medium size trucks, trailers, etc.

(a) The tow truck chassis shall have a minimum manufactures capacity of one and one-half (1-1/2) tons (18,000 G.V.W.);

(b) Boom specifications as follows:

(i) Double booms so constructed as to permit splitting with each boom to operate independently or jointly with individual boom capacity of no less than eight (8) tons and individual power winch pulling capacity of no less than eight (8) tons; or,

(ii) Single boom with no less than sixteen (16) tons capacity and a power winch pulling capacity of no less than sixteen (16) tons.

(c) Two hundred (200) feet or more of at least 7/16 inch cable or larger on each drum; and

(d) Cradle tow plate or tow sling to pick up vehicles, with the cradles of the tow plate to be equipped with safety chain.

(3) Class C: For towing large trucks, road tractors and trailers.

(a) The tow truck chassis shall have a minimum manufacturers capacity of not less than three (3) tons (30,000 G.V.W.);

(b) Boom specifications as follows:

(i) Double booms so constructed as to permit splitting with each boom to operate independently or jointly with individual boom capacity of no less than twelve and one-half (12 ½) tons and individual power winch pulling capacity of no less than twelve and one-half (12 ½) tons; or

(ii) Single boom with no less than twenty-five (25) tons capacity and a power winch pulling capacity of no less than twenty-five (25) tons.

(c) Two hundred (200) feet or more of 9/16 inch cable or larger on each drum;

(d) Air brakes so constructed as to lock wheels automatically upon failure.

(4) Class D: Vehicle transporters designed to tow or carry passenger cars, pick-up trucks, small trailers, etc., "damage-free". This classification includes "Wheel Lift" and "Car Carrier" or "Rollback" type vehicle transporters.

(a) Wheel Lift: wreckers possessing equipment capable of lifting the vehicle by the wheels only, with nothing touching the vehicle body.

(i) Wheel lift wreckers shall meet all Class "A" requirements excluding the belt-type cradle tow plate or tow sling.

(ii) Safety restraint straps (nylon straps with ratchets or the equivalent), shall be provided to secure the towed vehicle tires into the wheel lift forks.

(b) Car carrier vehicle transporters:

(i) The truck chassis shall have minimum manufacturer's capacity of one (1) ton (10,000 pounds G.V.W.R.);

(ii) Lift cylinders, two (2) with a minimum three (3) inch bore each or one (1) with a minimum five (5) inch bore;

(iii) Individual power winch pulling capacity of not less than four (4) tons;

(iv) Fifty (50) feet or more of 5/16 inch or larger cable on winch drum;

(v) Two (2) safety chains for securing vehicle to carrier bed;

(vi) Carrier bed shall be a minimum of sixteen (16) feet in length and a minimum of eighty-four (84) inches in width inside side rails;

(vii) Cab protector, constructed of solid steel or aluminum, that extends a minimum of ten (10) inches above the height of the bed. (1972 Code, § 5-603)

9-504. Permit required. Permits shall be granted only for "city approved wreckers" as provided herein. Wrecker or towing operators desiring to engage in the business of or offer the services of, a wrecker or towing service as a city

approved wrecker upon the streets of the City of Athens, Tennessee, shall be issued a permit as provided by this chapter for each wrecker operated by said wrecker or towing operator. Permits shall be issued for a Class A through Class D wrecker as the vehicles meet the requirements of § 9-503. Any wrecker service utilized by the City of Athens shall be properly licensed and insured. Every person qualified under this chapter shall be issued a permit by the city finance director for each wrecker approved by the city manager, which permit shall at all times be kept, with each wrecker. Such permit shall have printed thereon the year for which it is valid. (1972 Code, § 5-604)

9-505. Administrator. (1) The city manager or his designated agent shall be the administrator of the provisions of this chapter;

(2) The city manager shall approve permits, revoke or suspend permits, and otherwise administer the provisions of this chapter;

(3) The action of the city manager in granting or refusing a permit or in revoking or suspending a license shall be final except as it may be subject to review as provided by law. (1972 Code, § 5-605)

9-506. Application for license. Any person applying for qualifications as a city-approved wrecker shall provide the following information and assurances:

(1) Name and address of the person, firm, or corporation desiring the license.

(2) The location and full description of all property to be utilized in connection with the business.

(3) The number of wreckers or towing cars owned or available for use by the applicant and a description of each wrecker sufficient to determine a proper classification under § 9-503. (i.e., Class A, Class B, etc.).

(4) All wreckers are properly equipped for the applicable classification set forth in § 9-503 and contain required equipment set out in § 9-509.

(5) The wrecker or towing operator will accept responsibility for any and all personal property left in towed or stored vehicles.

(6) Maintain available space secured by fence or natural barrier sufficient to deter trespassing or vandalism for all disabled motor vehicles to be towed or otherwise removed from the place where they had been disabled.

(7) The applicant will provide twenty-four (24) hour service, including holidays, and that he will have a qualified operator on duty at all times for each city approved wrecker location licensed hereunder.

(8) The wrecker or towing operator will not release any vehicles impounded by the city without authorization by the police department, that a file will be maintained on all vehicle release forms and that this file will be made available for police inspection upon request. When no hold order is placed, the vehicle shall be released to the owner upon proof of ownership and when the necessary financial transactions between vehicle owner and wrecker service are completed.

(9) The applicant will maintain a minimum of one (1) properly equipped and licensed wrecker throughout the year for which application is being made.

(10) All local ordinances will be met in regards to vehicle storage, i.e., abandoned vehicle ordinances; and that failure to comply within thirty (30) days of notice will immediately eliminate the city approved status.

(11) A listing of fees and charges for common towing services and for storage of disabled vehicles which the applicant shall agree will not be increased during the applicable calendar year except as provided for in § 9-512(6). If the city manager finds that such charges are excessive in any particular case, the operator shall be notified and the application for a city approved wrecker permit denied, unless the applicant shall agree to reduce those charges deemed excessive.

(12) Wrecker service owners with a felony conviction will not be allowed a permit for a city approved wrecker. (1972 Code, § 5-606)

9-507. Application for permit, application fee, expiration date, and renewal. (1) Any applicant for a permit under this chapter shall be charged an application fee of forty dollars (\$40.00). This initial fee shall cover all permits required for each wrecker owned and operated by the applicant.

(2) If an applicant changes his business location, or, adds or substitutes a new or different wrecker, there shall be a supplemental fee of ten dollars (\$10.00).

(3) There shall be an annual permit renewal fee of twenty dollars (\$20.00).

(4) All permits shall expire on December 31. (1972 Code, § 5-607)

9-508. Investigation of applicant. The city manager shall cause to be investigated each applicant for a license to determine whether or not the applicant has the necessary equipment and facilities to qualify as a wrecker operator, and if the applicant is qualified, shall recommend to the city manager that a city approved wrecker permit be issued to the applicant. The city manager or his agent may inspect licensee's equipment or facilities at any time during business hours. The city manager shall be advised when any rate in an application appears to be excessive upon consideration of the factors set forth in § 9-513. The city manager shall direct or make such further investigation as he deems proper and grant or refuse a permit in his discretion. (1972 Code, § 5-608)

9-509. Required equipment and standards. In addition to the equipment required under the applicable wrecker classifications set forth in § 9-503, all wreckers shall have and maintain additional equipment and standards as follows:

(1) A least one (1) functional, amber-colored, rotor-beam type light shall be mounted on the top of the wrecker. No other color will be approved. All emergency flashers and directional lights showing to the front must be amber in color.

(2) At least one heavy-duty push broom;

(3) Flood lights on hoist to illuminate scene at night;

(4) One shovel;

(5) One axe;

(6) One pinch bar, pry bar or crowbar;

(7) One set of bolt cutters;

(8) A 20-pound class ABC underwriter laboratory approved fire extinguisher, a 2.7 pound Halon 1301/1211 fire extinguisher or equivalent fire extinguisher adequately charged.

(9) The appearance of wreckers shall be reasonably good with equipment painted.

(10) All tow trucks shall display the firm's name, address and phone number. Such information shall be painted on or permanently affixed on both sides. Magnetic signs will not be permitted. All lettering shall be at least three (3) inches high.

(11) It is the responsibility of the wrecker service to have equipment for removing glass and other debris from the highway accident scene. It is the responsibility of the wrecker operator to remove such debris from the highway.

(12) Sirens on wreckers or service trucks are prohibited.

(13) City approved wreckers shall have the capability of radio dispatch. (1972 Code, § 5-609)

9-510. Notification required for vehicles held over thirty days. The Tennessee Department of Revenue will be notified of all vehicles held over thirty (30) days, except when arrangements for longer storage are made by the owner, as required by Tennessee Code Annotated, § 55-16-101. (1972 Code, § 5-610)

9-511. Insurance. Before the city manager shall approve any license under this chapter including a renewal license, the applicant shall deposit with the city manager a certificate of insurance showing that the applicant has in force a policy issued by an insurance company authorized to transact business in the State of Tennessee as follows:

(1) Insurance must be sufficient to compensate for any loss of, or damage to, property entrusted to the wrecker service.

(a) Minimum vehicle liability amounts

(i) Class A and D wrecker classification - \$300,000

(ii) Class B wrecker classification - \$500,000

(iii) Class C wrecker classification - \$750,000

(b) While in the care, custody, and control of the wrecker service operator, garage keepers liability to cover any loss by fire, theft, explosion, and collision.

(2) The certificate of insurance must contain an endorsement providing for a minimum of ten days notice to the city in the event of any cancellation of the policy.

(3) The owner of the wrecker service shall make written notification of any changes in insurance coverage (i.e., changing companies, vehicles, etc.) to the city manager within ten (10) days prior to the change. (1972 Code, § 5-611)

9-512. Billing and charges for city approved wreckers. The applicants for a city approved wrecker permit shall be subject to regulation as to billing and charges for any call from the police department referred to the city approved wrecker under the call rotation system as follows:

(1) The owner of a wrecker or towing car shall have prepared billheads with his name and the address of his place of business printed thereon. The operator of the wrecker before towing a disabled vehicle shall prepare a bill on this billhead form in duplicate, the original of which shall be given to the owner of the disabled vehicle or his authorized representative if available at the scene. This bill shall contain the following information:

(a) Name and address of person engaging towing car.

(b) State license number of disabled vehicle.

(c) Storage rates per day or part thereof.

(d) An estimate of the amount to be charged for towing which may thereafter only be adjusted for good cause. The printing of a schedule of fees on a billhead marked as to services rendered shall be sufficient for this purpose.

(2) The duplicate copy of the bill shall be retained by the wrecker or towing car owner for a period of one (1) year, and shall be subject to inspection by the city manager or his duly authorized representative.

(3) All charges for towing and storing a disabled vehicle, or other related charges, shall be reasonable.

(4) All applicants for a permit shall file with their application a schedule of charges for routine services proposed to be charged for the calendar year for which the application is filed. This form shall be approved by the city manager. The city manager shall review the proposed charges and determine whether or not they are excessive. No application for a city approved wrecker shall be approved if the city manager determines any portion of the fees to be excessive. Applicants may modify their proposed schedule of charges to reduce charges that the city manager determines to be excessive. The city manager shall consider the following factors in determining the reasonableness of charges for routine services:

- (a) The average charge for such services proposed by applicants for the ensuing calendar year;
 - (b) The median charge for such services proposed by applicants for the ensuing calendar year;
 - (c) The cost and labor, materials, equipment, and the reason for providing such services;
 - (d) Fees charged for similar services in this community or for other similar communities in Tennessee.
- (5) There may be a surcharge of one-half of the basic towing fees for calls which are dispatched outside normal business hours.
- (6) Any change of rates shall be forwarded to the city manager no later than ten (10) days prior to the proposed change. (1972 Code, § 5-612)

9-513. Regulations for city approved wrecker. A city approved wrecker permittee shall follow these procedures:

- (1) Permittees will not be permitted to operate wrecker equipment, under more than one company name, out of the same location. A spouse, child or children, sibling, son-in-law, daughter-in-law, partner, stockholder, or any other person having an interest in a business shall not be permitted to operate another wrecker out of the same location.
- (2) Each city approved wrecker must have distinct and separate storage facilities.
- (3) All permittees are expected to be familiar and comply with the traffic laws of the City of Athens and the State of Tennessee.
- (4) Permittees will be familiar with and abide by all provisions of this chapter.
- (5) No permittee shall charge unreasonable rates for services rendered.
- (6) Permittees shall be available for twenty-four (24) hours service with vehicles in proper operating condition and a qualified operator on duty.
- (7) Operators shall carry vehicles to any destination within the City of Athens at the owner's or operator's request when charges therefor have been prepaid.
- (8) Permittees shall have a telephone number prominently posted for after-hours release of vehicles. The permittees may make an additional charge for releasing a vehicle other than during normal business hours, except when the location is otherwise open for business.
- (9) The police department may direct that a police impoundment be towed to a city lot at no additional charge.
- (10) Amber lights are to be used in the immediate vicinity of a wreck and while towing a vehicle.
- (11) All operators shall respond to a wreck within fifteen (15) minutes, with an additional five (5) minute grace period for those wrecker services enroute, after being called, and except for extenuating or unusual circumstances, a response must be made within this time after the dispatch

request is made to the wrecker operator. If the wrecker is engaged elsewhere or for any reason the wrecker operator cannot reasonably expect to respond within the above specified time, it shall be the duty of the wrecker operator to so advise the Police Department and decline to accept the call, whereupon the next wrecker operator on rotation shall be called. Class C wreckers shall be granted additional time to respond to a tow for a large truck, road tractor and trailers.

(12) No permittee shall refer or delegate police calls to other wrecker companies.

(13) No answering service, paging service or similar service or procedure may be used to forward a call to an owner or employee of the wrecker service during normal business hours. The operator may provide for an after-hours number which shall be provided to the city manager.

(14) The first city approved wrecker operator at the scene shall tow the vehicle causing the greatest hazard as directed by the investigating police officer.

(15) No repairs or other additional services shall be performed except on written request of the owner.

(16) Wrecker or towing operators who fail to answer a call will lose the call. If two (2) calls are missed, an investigation will be made and suspension or removal as a city approved wrecker will be considered. Operators refusing a call or failing to respond promptly to a call may be removed as a city approved wrecker.

(17) If additional equipment or recovery vehicles are needed to adequately complete a tow (i.e., tractor-trailer roll-over or difficult auto recovery), discretion of the responding wrecker service should be used in deciding what and whose additional equipment will be required. The severity of the situation and the estimated response time of additional equipment will be weighed by the officer at the scene, who is the deciding authority. (1972 Code, § 5-613)

9-514. Permit revocation/suspension. (1) The city manager shall revoke or suspend the permit of any permittee on any of the following grounds:

(a) If the permit was procured by fraudulent conduct or false statement of a material fact or a fact concerning the applicant which was not disclosed at the time of his making the application that would have constituted just cause for refusing to issue the license.

(b) Failure of a city approved wrecker permittee to have an operable and properly equipped wrecker and qualified operator on duty at all times or to promptly respond to police calls.

(c) If the city approved wrecker permittee has knowingly overcharged or consistently overcharges.

(d) A violation of any provision of this chapter.

(e) The city manager may revoke or suspend a permit for due cause not specified herein.

(2) Revocation of a permit shall terminate all authority and permission granted by such permit to the licensee. Any person whose permit has been revoked shall not be eligible to again apply for a license for a period of one (1) year from the date of such revocation. Suspension of a permit shall be decided on a case-by-case basis. An appeal of a revocation or suspension may be made to the city manager. (1972 Code, § 5-614)

9-515. Vehicles to be towed to place designated by owner-coercion at scene of accident prohibited. The wrecker operator may tow the wrecked or disabled vehicle to the operator's place of business; provided, if the owner or agent of the wrecked or disabled vehicle pays or secures the towing charges, then the wrecker operator shall pull the vehicle to any place designated by said owner or agent. It shall be unlawful for the owner of a wrecker, his agent, employee or representative at the scene of any accident to high-pressure or otherwise to coerce or insist upon any owner of a wrecked or disabled vehicle to sign a work order or agreement at the scene of the accident for any repairs to be made on such wrecked or disabled vehicle. (1972 Code, § 5-615)

9-516. Wreckers to go to scene of accident on call of owner or police only. It shall be unlawful for any wrecker operator, or his agent or representative, to go to any place where an accident has occurred unless called by the driver or owner of a disabled vehicle, or his authorized representative, or by the police department dispatcher. In any event, the wrecker shall clear with the police dispatcher before going to the accident scene. It shall be unlawful for the owner of any wrecker or towing car, or his agent or representative, to go to the place of a wreck by reason of information received by shortwave or police radio. (1972 Code, § 5-616)

9-517. Solicitation of towing work by operator, etc., of towing car prohibited. It shall be unlawful to drive along any street and solicit towing work. A wrecker operator shall not proceed to the scene of a disabled motor vehicle without having been requested or notified to do so, as provided in § 9-516 of this code. Responding to a call upon notice from gas station attendants, taxicab drivers or unauthorized persons shall be considered a violation of this chapter. (1972 Code, § 5-617)

9-518. Solicitation of business by city employees. It shall be unlawful for any city employee to solicit business for any wrecker or towing car operator. Any employee guilty of violating the provisions of this section shall be subject to disciplinary action up to and including termination. (1972 Code, § 5-618)

9-519. Owner's request wreckers. Police officers shall honor the request of the owner or operator of a wrecked or disabled vehicle to call a particular wrecker service, whether a city approved wrecker or not. The officer shall radio the dispatcher who shall contact the wrecker operator requested to determine if the operator is willing and able to respond to the scene of the wreck for a disabled motor vehicle within twenty (20) minutes, or, within thirty (30) minutes for a Class C wrecker. If so, the dispatcher shall dispatch the operator requested. The City of Athens assumes no liability or responsibility regarding owner's requested wreckers. If there is any traffic hazard or other reason why the vehicle cannot be left unattended or the requested operator cannot respond within the applicable time limit then the dispatcher shall dispatch a city approved wrecker. (1972 Code, § 5-619)

CHAPTER 6

AMBULANCE SERVICE

SECTION

- 9-601. Definitions.
- 9-602. Certificate of public convenience and necessity required.
- 9-603. Application for ambulance certificate.
- 9-604. Standards for ambulance vehicles.
- 9-605. Duties of city manager.
- 9-606. Issuance or transfer of certificate.
- 9-607. Standards for ambulance equipment.
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- 9-609. Standards for drivers', attendants', and attendant drivers' permits.
- 9-610. Renewal of permit.
- 9-611. Revocation of certificate.
- 9-612. Rates.
- 9-613. Penalty.

9-601. Definitions. Wherever used in this chapter the following terms shall be construed as set out herein:

(1) "Ambulance" - means any privately or publicly owned motor vehicle that is specially designed or constructed and equipped and is intended to be used for, and is maintained and operated for, the transportation of patients.

(2) "Attendant" - means a trained qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.

(3) "Attendant-driver" - means a person who is qualified as an attendant and a driver and who has a chauffeur's license issued by the State of Tennessee.

(4) "Certificate" - means a certificate of public convenience and necessity, issued by the city council under the provisions of this chapter, authorizing the holder thereof to conduct an ambulance service in the city.

(5) "Patient" - means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(6) "Person" - means any individual, firm, partnership, association, corporation, company, or group of individuals acting together for a common purpose, or an organization of any kind. (1972 Code, § 5-701)

9-602. Certificate of public convenience and necessity required. (1) No person, either as owner, agent, or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to be engaged in the business or service of transporting patients upon the streets, alleys, or any public way or place of the city, unless he holds a currently valid certificate of

public convenience and necessity for such ambulance business or service issued by the council pursuant to the provisions of this chapter.

(2) No ambulance shall be operated for ambulance purposes, and no individual shall drive, attend, or permit it to be operated for such purposes on the streets, alleys, or any public way or place in the city unless it shall be under the immediate supervision and direction of a person who is holding a currently valid license as an attendant-driver or attendant.

(3) Provided, however, that no such certificate or license shall be required for an ambulance or for the driver, attendant, or attendant-driver of an ambulance which is:

(a) rendering assistance in the case of a major catastrophe or emergency with which the certificated ambulances of the city are insufficient or unable to cope; or

(b) is operated from a location or headquarters outside of the city in order to transport patients who are picked up beyond the city limits to locations within the city, but no such outside ambulance shall be used to pick up patients within the city for transportation to locations within the city unless the driver, attendant, and attendant-driver and the person subject to the provisions of § 9-602(1) of this chapter in respect of such ambulance, hold currently valid certificates and licenses issued pursuant to this chapter. (1972 Code, § 5-702)

9-603. Application for ambulance certificate. Applications for an ambulance certificate hereunder shall be made upon such forms as may be prescribed or approved by the city manager and shall contain:

(1) The name and address of the applicant and of the owner of the ambulance.

(2) The trade or other fictitious name, if any, under which the applicant does business or proposes to do business.

(3) The training and experience of the applicant in the transportation and care of patients.

(4) A description of each ambulance, including the make, model, year of manufacture, and current state license number.

(5) That such applicant shall have service available at all times.

(6) That such applicant shall have in effect liability insurance for such ambulances in the amount of \$10,000 - \$20,000 for personal injury and \$5,000.00 for property damage. Copies of said policies shall be filed with the city before a certificate is issued by the city.

(7) Such other information as the city manager shall deem reasonably necessary to a fair determination of compliance with this chapter. (1972 Code, § 5-703)

9-604. Standards for ambulance vehicles. (1) Each ambulance shall, at all times when in use as such:

(a) be suitable for the transportation of patients from the standpoint of health, sanitation, and safety, and be maintained in suitable premises;

(b) contain equipment conforming with the standards, requirements, and regulations provided for herein, which equipment shall be in proper and good condition for such use;

(c) currently comply with and obey all applicable laws and local ordinances relating to health, sanitation, and safety;

(d) be equipped with such lights, siren, and special markings to designate it as an ambulance as may be prescribed by law and in reasonable regulations, if any, promulgated by the city manager;

(e) be equipped with two-way radio equipment in good working order;

(f) be manned by at least two persons, when possible, consisting of a driver and an attendant or driver-attendant and an attendant, unless otherwise ordered by a member of the medical profession.

(2) Each approved ambulance vehicle, its equipment, and the premises designated in the application, and all records relating to its maintenance and operation as such, shall be open to inspection by the city manager or his designated representative during usual hours of operation.

(3) No official entry made upon a certificate may be defaced, removed, or obliterated. (1972 Code, § 5-704)

9-605. Duties of city manager. The city manager shall, within thirty (30) days after receipt of an application for an ambulance certificate as provided for herein, cause such investigation as he deems necessary to be made of the applicant and of his proposed operations. If the city manager finds:

(1) That the public convenience and necessity requires the proposed ambulance service;

(2) That such ambulance and its equipment are in satisfactory condition;

(3) That the applicant is a responsible and proper person to conduct or work in the proposed business;

(4) That only duly licensed drivers, attendants, and attendant-drivers are or will be employed in such capacities; and

(5) That all the requirements of this chapter and all other applicable laws and ordinances have been met; then the city manager shall recommend to the council that the council issue a certificate to the applicant; otherwise, the city manager shall recommend to the council that the application be denied. The applicant and other certificate holders, if any, shall be given notice of the meeting of council when the report of the city manager will be considered. The decision of the council on the matter will be final. (1972 Code, § 5-705)

9-606. Issuance or transfer of certificate. The certificate, when issued, shall be filled out in duplicate and shall contain the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance. One copy shall be retained in the files of the city manager and the applicant shall receive the other copy. Such certificate shall be effective until cancelled and shall expire when the holder thereof fails for a period of thirty (30) days to operate an ambulance service within the city in accordance with such certificate. Certificates shall not be transferable except upon the written consent of the city manager endorsed on such certificates.

At least ninety (90) days written notice to the city manager shall be required for a certificate holder to voluntarily cease the operating or rendering of ambulance services in the city. (1972 Code, § 5-706)

9-607. Standards for ambulance equipment. (1) Equipment required in each ambulance shall include, at all times when the ambulance is in use as such, equipment adequate for dressing wounds, splinting fractures, controlling hemorrhage, and oxygen equipment complete with pressure regulator with one (1) hours supply at normal rate of usage.

(2) A log shall be kept in said vehicle at all times and the operator shall maintain a complete record of all trips, persons transported, and other information required by the city manager. (1972 Code, § 5-707)

9-608. Application for drivers', attendants', and attendant-drivers' permits. Applications for drivers', attendants' and attendant-drivers' permits hereunder shall be made upon such forms as may be prepared or prescribed by the chief of police and shall contain:

(1) The applicant's full name, current residence, places of residence for three (3) years previous to moving to his present address, and the length of time he has resided in the city.

(2) The applicant's age, marital status, height, color of eyes and hair.

(3) Whether he has ever been convicted of a felony or misdemeanor, and, if so, when and where and for what cause.

(4) The applicant's training and experience in the transportation and care of patients, and whether he has previously been licensed as a driver, chauffeur, attendant or attendant-driver, and if so, when and where, and whether his license has ever been revoked or suspended in any jurisdiction and for what cause.

(5) Affidavits of good character from two reputable citizens of the United States who have personally known such applicant and observed his conduct during three (3) years next preceding the date of his application.

(6) Two (2) recent photographs of the applicant, of a size designated by the chief of police, one of which shall be attached by the chief of police to the permit.

(7) Such other information as the chief of police shall deem reasonably necessary to a fair determination of compliance with this chapter. (1972 Code, § 5-708)

9-609. Standards for drivers', attendants', and attendant-drivers' permits. (1) The chief of police shall, within a reasonable time after receipt of an application as provided for herein, cause such investigation as he deems necessary to be made of the applicant for a driver's, attendant's, or attendant-driver's permit.

(2) The chief of police shall issue a permit to a driver, attendant, or attendant-driver hereunder, valid for a period of three (3) years, unless earlier suspended, revoked, or terminated, when he finds that the applicant:

(a) is not addicted to the use of intoxicating liquors or narcotics, and is morally fit for the position;

(b) is able to speak, read, and write the English language;

(c) has been found by a duly licensed physician to be of sound physique, possessing eyesight corrected to at least 20/40 in the better eye, and free of physical defects or diseases which might impair the ability to drive or attend an ambulance; and

(d) for each applicant for attendant's or attendant-driver's permit, that such applicant has a currently valid certificate evidencing successful completion of a course of training equivalent to the advanced course in first aid given by the American Red Cross.

Provided, however, that no one shall be issued a permit as a driver or attendant-driver unless he holds a currently valid chauffeur's permit from the State of Tennessee and is eighteen (18) years of age.

(3) A permit as driver, attendant, or attendant-driver issued hereunder shall not be assignable or transferable.

(4) No official entry made upon a permit may be defaced, removed, or obliterated. (1972 Code, § 5-709)

9-610. Renewal of permit. Renewal of any permit hereunder, upon expiration for any reason or after revocation, shall require conformance with all the requirements of this chapter. (1972 Code, § 5-710)

9-611. Revocation of certificate. (1) The city manager may, and is hereby authorized to, suspend, or revoke a certificate issued hereunder for failure of a certificate holder to comply and to maintain compliance with, or for his violation of, any applicable provisions, standards, or requirements of this chapter, or of regulations promulgated hereunder, or of any other applicable laws or ordinances or regulations promulgated hereunder, but only after a warning and such reasonable time for compliance as may be set by the city manager. Within ten (10) days after a suspension, the certificate holder shall be afforded a hearing, after reasonable notice. The city manager shall, within ten (10) days

after conclusion of such hearing, issue a written decision (which shall include written findings) as to the suspension of said license. Such written decision shall be promptly transmitted to the licensee to whom it refers. An appeal from the decision of the city manager may be made to the council.

(2) Upon suspension, revocation, or termination of an ambulance certificate hereunder, such ambulance shall cease operations as such and no person shall permit such ambulance to continue operations as such. Upon suspension, revocation, or termination of a driver's, attendant's, or attendant-driver's permit hereunder, such driver, attendant, or attendant-driver shall cease to drive or attend an ambulance and no person shall employ or permit such individual to drive or attend an ambulance. (1972 Code, § 5-711)

9-612. Rates. The rate to be charged for the transportation of a patient from one point within the city to another within the city shall be twenty dollars (\$20.00). When trips are made beyond the city limits, an additional mileage charge of 50 cents per mile one way will be made for the distance the patient is transported beyond the city limits. If it is necessary to wait for patient, a waiting charge of \$5.00 per hour may be made. (1972 Code, § 5-712)

9-613. Penalty. Any person who shall violate any of the provisions of this chapter for which no other penalty is provided shall be punished under the general penalty clause for this code of ordinances. (1972 Code, § 5-713)

CHAPTER 7

BUILDING TRADESMEN

SECTION

- 9-701. Definitions.
- 9-702. Building tradesmen to be licensed.
- 9-703. Procedure for qualification of building tradesmen.
- 9-704. Issuance and term of license.
- 9-705. Illegal work-revocation of licenses.
- 9-706. Allowing name or license to be used fraudulently.
- 9-707. Permit required.

9-701. Definitions. Building tradesmen (hereinafter referred to as the trades) includes the following occupations: electricians, plumbers, and mechanical (heat ventilation, & air conditioning "HVAC") contractors, but not limited to these occupations.

9-702. Building tradesmen to be licensed. Before any person or corporation, shall perform any trade in the City of Athens, they shall be qualified as set forth herein and a license shall be obtained from the city, or they must hold a valid State of Tennessee contractors license for their particular trade.

9-703. Procedure for qualification of building tradesmen. Any person or corporation, that desires to do work in the City of Athens, shall make application with the department of community development and having verifiable proof of a minimum of five (5) years experience in the trade in which they are seeking licensing in or by showing proof of passing the trade examination given by the State of Tennessee Board of Licensing Contractors. Said person or corporation shall pay all necessary city license fees that are applicable at that time, and shall abide by all city ordinances. (as replaced by Ord. #904, Oct. 2002)

9-704. Issuance and term of license. Licenses shall be issued annually by the department of community development to all applicants who comply with the requirements of this chapter. All licenses shall carry an expiration date of December 31st of each year with a grace period extending through March 31st of the next year. The fee for license renewal shall be set by the department of community development, and must be submitted to the City of Athens before March 31st. Contractors with a State of Tennessee license shall pay all licensing fees as set forth by the City of Athens Department of Community Development. (as renumbered and amended by Ord. #904, Oct. 2002)

9-705. Illegal work-revocation of licenses. Any person or corporation, engaged in doing work in any of the above mentioned trades, which does not conform to the applicable codes adopted by the City of Athens, or whose workmanship or materials are of inferior quality, shall on notice from the appropriate inspector, make necessary changes or corrections at once so as to conform to the applicable code. If such work has not been corrected after ten (10) days notice from the inspector, the inspector shall then refuse to issue further permits to such licensee until his work has been made to fully comply with the applicable code. The building inspector may revoke any license issued hereunder for continuous violations. When the revocation of any license is to be considered, the person to whom the license has been issued shall be given seven (7) days notice in writing of the revocation of the license. Such notice shall state the reasons for the revocation and shall inform the licensee of the appeals process, whereby upon the request of the licensee, the building inspector shall present his charges resulting in revocation to the board of adjustments and appeals. During the appeal process, the licensee shall be allowed to appear in his own behalf, to be represented by legal counsel, and to present witnesses. It shall be the responsibility to the board of adjustments and appeals to render a decision to concur with the revocation or to reinstate the license. (as renumbered and replaced by Ord. #904, Oct. 2002)

9-706. Allowing name or license to be used fraudulently. No person or corporation engaged in doing work in any of the above mention trades, shall allow his name to be used by any other person, firm, or corporation, directly or indirectly, to obtain a permit, or for the construction of any work under his name or license nor shall he make any misrepresentations or omissions in his dealings with the City of Athens. (as renumbered by Ord. #904, Oct. 2002)

9-707. Permit required. Each trade shall be responsible to purchase the proper permits for each job of record, and they are responsible for the proper inspections to be made at each phase of the construction process, and to see that proper entrance to the premises is provided to the appropriate inspector. No work shall be covered or made inaccessible until the proper inspection has been made. (as renumbered by Ord. #904, Oct. 2002)

CHAPTER 8

PRIVATE SECURITY AND FIRE ALARM BUSINESSES AND USERS

SECTION

- 9-801. Declaration of purpose.
- 9-802. Definitions.
- 9-803. Administrative rules.
- 9-804. Automatic dialing device.
- 9-805. Testing.
- 9-806. Notification.
- 9-807. Penalties.
- 9-808. Liability of city.

9-801. Declaration of purpose. This chapter is enacted to provide minimum standards and regulations applicable to private fire and security alarm users and businesses. Both society in general and public safety in particular will be aided by providing a useful and usable system of private security which properly balances quick response by police with minimization of police time spent on alarms which are false or otherwise not the intended function of private security systems. (1972 Code, § 5-901, as replaced by Ord. #837, § 1, Nov. 1997)

9-802. Definitions. Within this chapter, the following terms, phrases, and words and their derivations have the meaning given herein.

(1) The term "alarm business" means any business in which the owners or employees engage in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling or servicing alarm system(s).

(2) The term "alarm system" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line or otherwise receives electrical energy arranged to signal the presence of a hazard requiring urgent attention and to which emergency personnel are expected to respond. In this chapter, the term "alarm system" shall include the terms "automatic robbery alarm systems," "burglar systems," "fire alarm systems," and "personal alarm systems," as those terms are hereinafter defined. Excluded from this definition and from the coverage of this chapter are alarm systems used to alert or signal persons within the premises in which the alarm system is located, of an attempted unauthorized intrusion or robbery attempt. If such a system, however, employees an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of alarm system and shall be subject to this chapter.

(3) The term "annunciator" means the instrumentation on an alarm console at the receiving terminal of a signal line which through both visual and

audible signals shows when an alarm device at a particular location has been activated or it may also indicate line trouble.

(4) The term "answering service" refers to a telephone answering, service providing among its services the service of receiving on a continuous basis through trained employees, emergency signals from alarm systems and thereafter immediately relaying the message by live voice to the communication center.

(5) The term "automatic dialing device" refers to an alarm system which automatically sends over regular telephone lines, by direct connections or otherwise, a pre-recorded voice message or code signal indicating the existence of the emergency situation that the alarm system is designed to detect.

(6) The term "automatic robbery alarm system" means an alarm system in which signal transmission is initiated by the action of the robber. (Robbery is the intentional or knowing theft of property from the person of another by violence or putting the person in fear.)

(7) The term "burglar alarm system" refers to an alarm system signaling an entry or attempted entry into the area protected by the system.

(8) The term "direct connect" means an alarm system which has the capability of transmitting system signals to and receiving them at an agency maintained by the local government, for example, a communication center.

(9) The term "false alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his employees or agents or other undetermined causes. Such terminology does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes, or other violent conditions.

(10) The term "interconnect" means to connect an alarm system to a voicegrade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

(11) The term "manual robbery alarm system" refers to an alarm system in which the signal transmission is initiated by the direct action of the victim of a robbery or by an observer of a robbery.

(12) The term "modified central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits.

(13) The term "police chief" means the chief of the police department of the city or his designated representative.

(14) The term "primary truckline" means a telephone line leading directly into the communication center that is for the purpose of handling emergency calls on a person-to-person basis, and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the police and fire department's jurisdiction, or numbers in sequence therewith.

(15) The term "subscriber" means a person who buys and/or leases, or otherwise obtains an alarm signaling system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device. (1972 Code, § 5-902, as replaced by Ord. #837, § 1, Nov. 1997)

9-803. Administrative rules. The police chief or such officer as the police chief may designate shall promulgate such rules as may be necessary for the implementation of this chapter. Such rules shall require the approval of the city manager and shall be open to inspection by the public. (1972 Code, § 5-903, as replaced by Ord. #837, § 1, Nov. 1997)

9-804. Automatic dialing device. No person shall interconnect any automatic dialing device to an emergency primary truckline telephone number except one designated for the specific purpose of answering automatic dialing devices. After the effective date of this section,¹ no person shall permit such devices to remain interconnected to an emergency primary trunk line, except one designated for the specific purpose of answering automatic dialing devices, from any property owner or controlled by that person.

The director of the communications department may approve the connection of an automatic dialing device to an emergency primary trunk line phone number installed to answer automatic dialing devices. (1972 Code, § 5-904, as replaced by Ord. #837, § 1, Nov. 1997)

9-805. Testing. No alarm system relayed through intermediate services to the communications department will be tested to determine emergency response. (1972 Code, § 5-906, as replaced by Ord. #837, § 1, Nov. 1997)

9-806. Notification. When an alarm business service to its subscribers is disrupted for any reason by the alarm business, or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscribers not to make such notification by telephone during certain hours, the alarm business may comply with such instructions. (1972 Code, § 5-907, as replaced by Ord. #837, § 1, Nov. 1997)

¹This section was taken from Ord. #837 which passed final reading November 18, 1997.

9-807. Penalties. Any person who violates any provision of this chapter shall upon conviction be subject to a civil penalty under the general provision of the municipal code by the City of Athens, together with the costs and costs of prosecution. (1972 Code, § 5-909, as replaced by Ord. #837, § 1, Nov. 1997)

9-808. Liability of city. The city will not be liable for failure to respond to any call whether genuine or false. (1972 Code, § 5-910, as replaced by Ord. #837, § 1, Nov. 1997)

CHAPTER 9

CABLE TELEVISION

SECTION

9-901. To be furnished under franchise.

9-901. To be furnished under franchise. Cable television service shall be furnished to the City of Athens and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of Athens 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.¹

¹For complete details relating to the cable television franchise agreement see Ordinance #337, Ord. #807 (Sept. 1995), Ord. #809 (Dec. 1995), Ord. #811 (May 1996) and any amendments, in the office of the city manager.

CHAPTER 10

ADULT ORIENTED ESTABLISHMENTS

SECTION

- 9-1001. Findings and purpose.
- 9-1002. Definitions.
- 9-1003. License required.
- 9-1004. Application for license.
- 9-1005. Standards for issuance of license.
- 9-1006. Permit required.
- 9-1007. Application for permit.
- 9-1008. Standards for issuance of permit.
- 9-1009. Fees.
- 9-1010. Display of license or permit.
- 9-1011. Renewal of license or permit.
- 9-1012. Revocation of license or permit.
- 9-1013. Hours of operation.
- 9-1014. Responsibilities of the operator.
- 9-1015. Prohibitions and unlawful sexual acts.
- 9-1016. Penalties and prosecution.
- 9-1017. Severability clause.

9-1001. Findings and purpose. (1) The city council of the City of Athens, Tennessee, finds: (a) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, could occur in adult-oriented establishments in the City of Athens; (b) That offering and providing such space, areas, and rooms where such activities may take place creates conditions that generate prostitution and other crimes; (c) That the unregulated operation of adult-oriented establishments would be detrimental to the general welfare, health, and safety of the citizens of the City of Athens.

(2) It is the purpose of this chapter to promote and secure the general welfare, health, and safety of the citizens of the City of Athens. (as added by Ord. #843, § 1, April 1998)

9-1002. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-orient establishment" shall include, but not be limited to, "adult bookstores," "adult motion picture theaters," "adult mini motion picture establishments," or "adult cabaret" and further means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of

viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainments are held, conducted, operated or maintained for a profit, direct or indirect. Any "adult-oriented establishment" further includes, without being limited to any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, or magazines and other periodicals which are distinguished or characterized by the emphasis on matter.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical areas," as defined below for observation by patrons therein.

(4) "Adult mini motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below for observation by patrons therein.

(5) "Adult cabaret" is defined to mean an establishment which features as a principal use of its business, entertainers, and/or waiters and/or bartenders who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie, or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainers.

(6) "City Council" means the city council of the City of Athens, Tennessee.

(7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(9) "Adult entertainment" means any exhibition of any adult-oriented motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance, any actual or simulated

performance of specified sexual activities or exhibition, and viewing of specified anatomical area, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(10) "Operator" means any person, partnership, or corporation operating, conducting, or maintaining an adult-oriented establishment.

(11) "Specified sexual activities" means: (a) human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse, or sodomy; (c) fondling or erotic touching of human genitals, public region, buttock, or female breasts.

(12) "Specified anatomical areas" means:

(a) less than completely and opaquely covered;

(i) human genitals, pubic region;

(ii) buttocks;

(iii) female breasts below a point immediately above the top of the areola area; and

(b) human male genitals in a discernibly turgid state, even if completely opaquely covered. (as added by Ord. #843, § 1, April 1998)

9-1003. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter,¹ no adult-oriented establishment shall be operated or maintained in the City of Athens without first obtaining a license to operate issued by the City of Athens.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee, or operator to knowingly work in or about, or to knowingly perform any service directly related to the operations of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter¹ must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on third and final reading.¹ If a license is not issued within said one-hundred-twenty-day period, then such existing adult-oriented establishment shall cease operations. (as added by Ord. #843, § 1, April 1998)

9-1004. Application for license. (1) Any person, partnership or corporation desiring to secure a license shall make application to the city

¹These provisions were taken from Ord. # 843, which passed third reading April 21, 1998.

manager. The application shall be filed in triplicate with and dated by the City of Athens. A copy of the application shall be distributed promptly by the city manager to the Athens Police Department and to the applicant.

(2) The application for a license shall be upon a form provided by the city manager. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five (5) percent of the stock of a corporate applicant or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eye and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant previously operated in this or any other county, city, or state under an adult-oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant.
- (j) The names and addresses of all persons, partnerships, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to contact purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time the applicant has been a resident of the City of Athens or its environs immediately preceding the date of the application.
- (m) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name

and address of the registered agent and the name and address of all principal shareholders, officers, and directors of the corporation.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment, or in any other fashion kept on the premises or any part or portion thereof for storage, display, another use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor's business name, address, phone number, and representative's name.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Athens Police Department, the city manager shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city manager shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of the receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence as to why his license should not be denied. The city council shall hear evidence as to the basis of the denial and shall affirm or reject the denial of an application at the hearing. If any application for an adult-oriented establishment license is denied by the city council and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery County of McMinn County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city manager. (as added by Ord. #843, § 1, April 1998)

9-1005. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

(i) The applicant shall be at least eighteen (18) years of age.

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors, and stockholders required to be named under 10-104(2) shall be at least eighteen (18) years of age.

(ii) No officer, director, or stockholder required to be named under 10-104(2) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No officer, director, or stockholder required to be named under 10-104(2) shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(c) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:

(i) No persons having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(ii) No persons have a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Athens Police Department has investigated the applicant's qualification to be licensed. The results of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application. (as added by Ord. #843, § 1, April 1998)

9-1006. Permit required. In addition to the license requirement previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented

establishment without first obtaining a valid permit issued by the city manager. (as added by Ord. #843, § 1, April 1998)

9-1007. Application for permit. (1) Any person desiring to secure a permit shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Athens Police Department and to the applicant.

(2) The application for a permit shall be upon a form provided by the city manager. An application for a permit shall furnish the following information under oath.

BUSINESS, TRADES AND OCCUPATIONS

- (a) Name and address, including all aliases.
 - (b) Written proof that the individual is at least eighteen (18) years of age.
 - (c) All residential addresses of the applicant for the past three (3) years.
 - (d) The applicant's height, weight, color of eyes and hair.
 - (e) The business, occupation, or employment of the applicant for five years immediately preceding the date of the application.
 - (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name or where the applicant was employed or associated at the time of such suspension or revocation.
 - (g) All criminal statutes, whether federal, state, or city ordinance violation, convictions, forfeiture of bond and pleadings or nolo contendere on all charges, except minor traffic violations.
 - (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2 inches of the applicant.
 - (i) The length of time the applicant has been a resident of the City of Athens or its environs immediately preceding the date of the application.
 - (j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Athens Police Department, the city manager shall notify the applicant that his application is granted, denied, or held for further

investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigations, the city manager shall advise the applicant in writing within ten (10) days whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence bearing upon the question. If the city council denies a license application, the city attorney shall within ten (10) days after the denial institute a suit for declaratory judgment in state court for review of the denial.

(5) Failure or refusal of the applicant to give information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city manager. (as added by Ord. #843, § 1, April 1998)

9-1008. Standards for issuance of permit. (1) To receive a permit as an employee, an applicant must met the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Athens Police Department has investigated the applicant's qualifications to receive a permit. The result of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application.

(3) Whenever an application for a permit as an employee is denied, the applicant may within ten (10) day of receipt of notification of denial request a hearing before the city council, at which the applicant may present evidence bearing upon the question. This hearing shall be held by the city council at the next regularly scheduled meeting of the city council which occurs more than five (5) days after the request for a hearing has been filed. If the city council denies the applicant a permit as an employee, the city attorney shall within ten (10) days after the denial institute suit for declaratory judgment in state court for review of the denial. (as added by Ord. #843, § 1, April 1998)

9-1009. Fees. (1) A license fee of five hundred dollars (\$500) shall be submitted with the application for a license. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100) shall be submitted with the application for a permit. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned. (as added by Ord. #843, § 1, April 1998)

9-1010. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Athens Police Department, or any person designated by the city council. (as added by Ord. #843, § 1, April 1998)

9-1011. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city manager. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Athens Police Department and to the operator. The application for renewal shall be upon a form provided by the city manager and shall contain such information and date, given under oath or affirmation, as may be required by the city council.

(2) A license renewal fee of five hundred dollars (\$500) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100) shall be assessed against the applicant who files for a renewal less than (60) days before the license expires. If the applicant is denied, one-half ($\frac{1}{2}$) of the total fees collected shall be returned.

(3) If the Athens Police Department is aware of any information bearing on the operator's qualifications, the information shall be filed in writing with the city manager.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the city manager. The application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Athens Police Department and to the employee. The application for renewal shall be upon a form provided by the city manager and

shall contain such information and data, given under oath or affirmation, as may be required by the city manager.

(5) A permit renewal fee of one hundred dollars (\$100) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

(6) If the Athens Police Department is aware of any information bearing on the employee's qualification, that information shall be filed in writing with the city manager. (as added by Ord. #843, § 1, April 1998)

9-1012. Revocation of license or permit. (1) The city manager shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city council pursuant to this chapter, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the city council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee become ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contract who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee, or entertainer sells, furnishes, gives, or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee, or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented materials are displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the McMinn County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary, and safe condition.

(2) The city manager, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days written notice of the charges against him or her and the opportunity for a public hearing before the city council, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. Whenever a license or permit is revoked by the city manager, the party holding the license or permit may within ten days of the notice of revocation request a hearing before the city council, at which time the party holding the license or permit may present evidence bearing upon the question. This hearing shall be held by the city council at the next regularly scheduled meeting of the city council that occurs more than five (5) days after the request for a hearing is filed. If the city council sustains the revocation, the party holding the license or permit may within ten (10) days thereafter institute suit in state court.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #843, § 1, April 1998)

9-1013. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays or between the hours of 1:00 A.M. and 12:00 midnight on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Athens Police Department or such other persons as the city council may designate. (as added by Ord. #843, § 1, April 1998)

9-1014. Responsibilities of the operator. (1) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information of each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employee available immediately for inspection by police upon demand of a member of the Athens Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if

such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator, shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Athens Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms, or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms, or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult-oriented entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises and shall read as follows:

This Adult-Oriented Establishment is regulated by Athens Municipal Code, Title 9, Chapter 10, Sections 9-1001 through 9-1017. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;

3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. #843, § 1, April 1998)

9-1015. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit it to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse of oral or anal copulation or other contact stimulation of the genitals.

(2) No operator entertainer or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.

(3) No operator entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts, or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee, or customer.

(4) No entertainer, employee, or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee, and/or customer. (as added by Ord. #843, § 1, April 1998)

9-1016. Penalties and prosecution. (1) Any person, partnership, or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding five hundred dollars (\$500) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #843, § 1, April 1998)

9-1017. Severability clause. If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the chapter. (as added by Ord. #843, § 1, April 1998)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS/CATS.
3. SEIZURE AND IMPOUNDMENT OF ANIMALS.

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 running at large.
- 10-108. Animal shelter to be provided.
- 10-109. Care of impounded animals.
- 10-110. Records of the animal control officer.
- 10-111. Interference with animal control officer prohibited.
- 10-112. Impoundment of animals by warrant.
- 10-113. Concealing an animal in violation of this chapter a misdemeanor.
- 10-114. Inspections and orders by the animal control officer.
- 10-115. Certain animals to be kept confined.
- 10-116. Civil liability of owners for injury caused by animals.
- 10-117. Protection of animals.
- 10-118. Keeping of wild animals.
- 10-119. Animal waste.
- 10-120. Fee schedule.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any dog, cat, swine, sheep, horses, mules, or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle or livestock to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. An animal shall be deemed to be running at large unless confined to the owner's premises or accompanied by a person in control of such animal either by leash or by voice commands which such animal will obey. (1972 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section, excluding dogs and cats, on any lot or parcel of ground on which a residence or business is located unless said lot or parcel of ground shall contain two acres or more, or within three hundred (300) feet of any residence, place of business or public street, nor within a pen or other enclosure which provides less than nine hundred (900) square feet of space for each animal or fowl without a permit from the animal control officer. The animal control 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. (1972 Code, § 3-102)

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. Excrement should be removed regularly from the living space of a penned or chained animal adequate to the sanitation of quarters and the health of the animal. (1972 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No owner shall fail to provide his animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air and ventilation, shelter space and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment. No animal shall be confined by a chain or pen not adequate to the size of the animal to allow freedom of movement and comfort to the animal. (1972 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance because of noise, odor, danger of contagious disease, or other reason. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

- (1) is repeatedly found at large;
- (2) damages the property of anyone other than its owner;
- (3) molests or intimidates pedestrians or passersby;
- (4) chases vehicles;
- (5) excessively makes disturbing noises;
- (6) causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premise where the animal is kept or harbored;
- (7) causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (8) attacks other domestic animals. (1972 Code, § 3-105)

10-106. Cruel treatment prohibited. (1) A person commits an offense who intentionally or knowingly:

- (a) Tortures, maims or grossly overworks an animal;
- (b) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;
- (c) Abandons unreasonably an animal in the person's custody;
- (d) Transports or confines an animal in a cruel manner; or
- (e) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(2) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in Tennessee Code Annotated, § 39-11-106.

(3) If the animal control officer has information that an animal or fowl is being so treated, then he may obtain a warrant and enter upon any premises where the animal or fowl is being kept and demand to examine such animals or fowls, to examine the license for such animals or fowls, and/or to take possession of such animals or fowls when such action is required to ensure their humane treatment. The animal control officer may dispose of such animals or fowls as provided in this chapter. If the animal requires a veterinarian's care, the owner of said animal shall be responsible for all medical expenses.¹ (1972 Code, § 3-106, as replaced by Ord. #986, March 2010)

10-107. Seizure and disposition of animals running at large. Any animal or fowl found running at large in violation of this chapter may be seized by the animal control officer or by any police officer and confined in an animal shelter provided or designated by the city manager. If the owner is known, that individual shall be given notice in person, by telephone, or by mail. If the owner is not known, the animal shall be confined in the shelter for a period not less than three (3) working days to allow an owner to reclaim that animal. In order to reclaim his animal, the owner must pay an impoundment fee plus a boarding fee which is to be established by the city council. Any animal not reclaimed by its owner within three (3) working days after the date of seizure shall become the property of local government authority and shall be placed for adoption in a suitable home subject to shelter adoption procedure. The unclaimed animal may be disposed of after an additional five (5) working days by veterinarian supervised euthanatization. Disposal of an animal does not relieve the owner of liability for violations, nor shall the City of Athens, or any of its agents or employees, be in any way responsible for any animal disposed of as hereinstated. The City of Athens, Tennessee, and its officials shall not be responsible for any illness, disease, or death occurring to any animal confined in the city's animal shelter, as stipulated in the City of Athens Standard Operating Procedures. (1972 Code, § 3-107, as replaced by Ord. #917, April 2004)

10-108. Animal shelter to be provided. The city manager shall establish an animal shelter for keeping impounded animals. The shelter may be operated

¹State law reference

Tennessee Code Annotated, § 39-3-104.

directly by the city or it may be operated by a veterinarian or other suitable person or organization under contract with the city. The shelter shall be operated as provided by the City of Athens Standard Operating Procedures for animal control, as prepared by the animal control commission, approved by city council. (1972 Code, § 3-108)

10-109. Care of impounded animals. It shall be the duty of the animal control officer to take proper care at all times of all animals held in custody by the city, and he shall provide adequate food, drink, and shelter as prescribed in the Standard Operating Procedures for the City of Athens Animal Shelter. (1972 Code, § 3-109)

10-110. Records of the animal control officer. It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of the licensing, impoundment, and disposition of all animals coming into the custody of the city.

It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him, and his investigation of same.

It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of all monies belonging to City of Athens. His records shall be opened to inspection at all reasonable times by such persons responsible for similar records of the City of Athens, and shall be audited by the City of Athens annually in the same manner as other city records are audited. (1972 Code, § 3-110)

10-111. Interference with animal control officer prohibited. Any person who interferes with, hinders, molests, or intimidates the animal control officer in the performance of any duty imposed by this chapter or who seeks to release any animal in custody of the animal control officer except as herein after provided shall be guilty of a misdemeanor. (1972 Code, § 3-111)

10-112. Impoundment of animals by warrant. It shall be the duty of the animal control officer to assist any police officer in serving a warrant on an owner of an animal in violation of this chapter. The animal control officer shall seize and retain the animal at the animal shelter until such time as the court or the city manager determines the disposition of such animals. (1972 Code, § 3-112)

10-113. Concealing an animal in violation of this chapter a misdemeanor. Any person who shall hide, conceal or aid or assist in hiding or concealing any animal owned, kept or harbored in violation of any of the provisions of this chapter shall be guilty of a misdemeanor. (1972 Code, § 3-113)

10-114. Inspections and orders by the animal control officer. When it becomes necessary to see that the provisions chapter are observed, the animal control officer shall have the power and it shall be his duty to enter any premises at any reasonable hour of the day for the purpose of making inspections.

When violations are discovered, he shall issue such orders as he reasonably deems necessary to correct the unlawful condition within a reasonable time. It shall be unlawful for any person to fail to comply with such order. (1972 Code, § 3-114)

10-115. Certain animals to be kept confined. The owner shall confine within a building or secure enclosure, any fierce, dangerous, or vicious animal, and not take such animal out of the building or secure enclosure unless such animal is securely muzzled.

The owner shall also post in a conspicuous place at each entrance to such building or enclosure, a clearly legible and visible sign warning all persons preparing to enter said building or enclosure of the dangerous or vicious animal confined therein. (1972 Code, § 3-115)

10-116. Civil liability of owners for injury caused by animals. Any person who owns, keeps, or harbors any animal which, while upon the premises of another, or upon public property, causes damage or injury to any person, domestic animal, or property, shall be held liable in damages, to such person, domestic animal or property. The lack of knowledge of the vicious or destructive nature of such animal, shall have no bearing upon the question of liability of the person owning, keeping, or harboring such animal. (1972 Code, § 3-116)

10-117. Protection of animals. All animals within the city are hereby declared to be the personal property and subjects of larceny, and it shall be unlawful for any person except an officer or authorized agent of the city in the legal performance of his duty, deliberately or by any means, to kill, or injure, or detain or to attempt deliberately to kill, or injure or detain any animal.

In case of accidental destruction or injury to an animal, the person causing such destruction or injury shall immediately report the same to the owner or to the appropriate city official, giving his name and address.

It shall be unlawful for any person to place any poison of any description in any place, on his premises or elsewhere, where it may be easily found or taken by any animal.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency. (1972 Code, § 3-117)

10-118. Keeping of wild animals. No person shall own, possess, or have custody on his premises any wild or vicious animal for display, training, or exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to AAZPA accredited facilities.

No person shall keep or permit to be kept any wild animal as a pet. (1972 Code, § 3-118)

10-119. Animal waste. The owner of every animal shall be responsible for the removal or any excreta deposited by his animal(s) on public walks, recreation areas, or private property. (1972 Code, § 3-119)

10-120. Fee schedule. The city council shall, annually, review and approve a fee schedule for the animal control program. (1972 Code, § 3-120)

CHAPTER 2

DOGS/CATS

SECTION

- 10-201. Rabies vaccination required.
- 10-202. Impoundment of animals known to have bitten a person.
- 10-203. Noisy dogs prohibited.
- 10-204. Adoption of impounded animals permitted.
- 10-205. Female animals in heat to be confined.
- 10-206. All persons must report bite cases.
- 10-207. Limit of three dogs per household without a permit.
- 10-208. Disposition of fees, fines, etc.

10-201. Rabies vaccination required. It shall be unlawful for any person to own, keep, or harbor any dog/cat more than three (3) months old which has not been vaccinated against rabies as set forth in Tennessee Code Annotated, §§ 68-8-107 and 68-8-108 and as required in this section. Only a vaccine that meets the standards prescribed by the United States Department of Agriculture for interstate sale shall be used. It shall be the duty of every owner to have his dog or cat vaccinated against rabies after the dog reaches three months of age, the cat six months of age. Regardless of the type of licensed vaccine used or the age of the animal at the time of the first (primary) vaccination, the animal shall be revaccinated one year later. Following the first two vaccinations, booster vaccinations will be due at either one or three year intervals in accordance with the approved duration of immunity of the specific vaccine used and the species vaccinated. The veterinarian making the vaccination shall collect his fee for the same from the owner of the dog/cat, shall issue a vaccination tag, and shall sign and issue certification bearing the owner's name and address, number of vaccination tag issued, date of vaccination, date the dog/cat should be revaccinated, description and sex of the dog/cat vaccinated, the type and lot number of vaccine administered. The certificate shall be prepared in triplicate, the original shall be given to the owner, first copy filed in the office of the local health department, and the second copy retained by the person administering the vaccine. The certificate form shall be the same as prepared and distributed by the state department of public health.

It shall be unlawful for any owner to own, keep, harbor or to permit to remain on or about the premises of such owner any dog/cat that does not wear a tag evidencing that the dog/cat has been vaccinated. (1972 Code, § 3-201, as replaced by Ord. #848, § 2, July 1998)

10-202. Impoundment of animals known to have bitten a person. Any animal known to have bitten a person or showing signs of rabies shall be apprehended and impounded for not less than (10) days. The animal shall be

impounded at the city operated shelter or with a licensed veterinarian at the discretion of the animal control officer. All fees for such impoundment shall be the responsibility of the animal's owner. If, during the period of impoundment, the animal exhibits any of the behavioral signs associated with rabies, the animal shall be sacrificed immediately and the head removed and shipped to a State of Tennessee approved laboratory for testing for presence of Negri bodies. (1972 Code, § 3-203, as renumbered by Ord. #795, July 1994)

10-203. Noisy dogs prohibited. No person shall own, keep or harbor any dog which, by loud and frequent barking, whining or howling, annoys the peace and quiet of any neighborhood. (1972 Code, § 3-204, as renumbered by Ord. #795, July 1994)

10-204. Adoption of impounded animals permitted. Any domestic animal which has been confined at the animal shelter and not claimed by its owner as provided in this chapter may be adopted by responsible adults to be kept only as household pets. Those desiring to adopt an animal shall be required to complete a questionnaire containing such information as may be necessary to determine suitability of pet ownership. Further, those desiring to adopt an animal shall be required to sign a contract with the City of Athens or its designated representative agreeing to have the animal examined by a licensed veterinarian within forty-eight (48) hours of adoption and immunized as recommended, to have the animal surgically sterilized as stipulated in the adoption contract, fees for said sterilization to be shared as specified in agreement with the local humane society, to obey all local and state ordinances pertaining to the keeping of animals as pets and to return the animal to the animal shelter if the terms of the contract cannot be met. (1972 Code, § 3-205, as renumbered by Ord. #795, July 1994)

10-205. Female animals in heat to be confined. Every owner of a female animal which has not been sterilized is required to confine the animal for a period of twenty-one (21) days during the period in which she is in heat. Upon request of the owner, the female in heat may be boarded at the animal shelter for a fee as specified in the approved fee schedule. The City of Athens assumes no responsibility or liability for such female animal while she is boarded. (1972 Code, § 3-206, as renumbered by Ord. #795, July 1994)

10-206. All persons must report bite cases. It shall be the duty of all citizens, including doctors and veterinarians, to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with all information helpful in locating animal which inflicted said bite. (1972 Code, § 3-207, as renumbered by Ord. #795, July 1994)

10-207. Limit of three dogs per household without a permit. Not more than three (3) dogs shall be kept by any one household unless owner has acquired a permit from the city's public works department. The animal control officer shall review each permit request to ensure compliance of all provisions of this chapter prior to issuance of the permit. (1972 Code, § 3-208, as renumbered by Ord. #795, July 1994)

10-208. Disposition of fees, fines, etc. All funds collected under the provisions of this chapter, including the license fees, redemption charges, and fines shall be paid into the general fund of the city. (1972 Code, § 3-209, as renumbered by Ord. #795, July 1994)

CHAPTER 3

SEIZURE AND IMPOUNDMENT OF ANIMALS

SECTION

10-301. Seizure and impoundment of animals.

10-301. Seizure and impoundment of animals. (1) When there is a violation of any section of the Animal Control Ordinance in any chapter of title 10 of the Athens City Code or a violation of any state law with respect to animals, an officer of the City of Athens may seize the animal and impound such animal in the city animal shelter following the issuance of a warrant by the city judge or any other judge authorized to issue a warrant, or under circumstances where a warrant is not required under applicable law, when the seizure and impoundment is deemed reasonable and necessary by the officer to:

- (a) Remove the animal from a substantial risk of harm;
- (b) Prevent the animal from causing harm or danger to other animals, persons or property; or
- (c) Preserve evidence of a violation of a city ordinance or state law.

(2) When an animal is seized or impounded, the officer shall make a reasonable effort to determine the owner of the animal. When the owner of the animal is ascertained, the officer shall notify the owner in writing of the seizure and impoundment by delivery of such written notice in person or by posting mail to the last known address of the owner within twenty-four (24) hours of ascertaining the owner of the animal.

(3) Any animal seized and impounded pursuant to this section shall remain impounded under the circumstances as follows:

(a) If the animal has been seized pursuant to § 10-107 for running at large and the owner cannot be ascertained, the provisions of § 10-107 apply.

(b) If the owner has been issued a citation or been arrested for a violation of any section of title 10 of this code or state law, the animal shall remain impounded until the disposition of the case if the animal control officer for the City of Athens has reason to believe that the animal poses a threat of harm to other animals, persons or property if released to the owner prior to disposition of the case or the animal control officer has reason to believe that the animal had been abused or neglected prior to impoundment and returning the animal to the owner exposes the animal to a risk of further abuse and neglect which threatens the safety and health of the animal if released to the owner prior to disposition of the case.

(4) This section shall not be interpreted to void any other section of title 10 with all sections to be given full effect and enforcement and if there is

Change 13, June 15, 2010

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any inconsistency, this section shall control. (as deleted by Ord. #891, Jan. 2002, and replaced by Ord. #986, March 2010)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

11-101. Minors in beer places.

11-101. Minors in beer places. No minor under twenty-one (21) years of age shall purchase or attempt to purchase beer at any place where beer is sold. (1972 Code, § 10-222, modified)

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

²Municipal 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. (1972 Code, § 10-234, modified)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1972 Code, § 10-201)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-401. 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. (1972 Code, § 10-202)

11-402. 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, streetcar, or other 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 person 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, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or

disturb the quiet, comfort or repose of any persons 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, streetcar, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling or other noise.

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

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

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

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city manager. 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. (1972 Code, § 10-233)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

- 11-501. Escape from custody or confinement.
- 11-502. Impersonating a government officer or employee.
- 11-503. False emergency alarms.
- 11-504. Resisting or interfering with an officer.
- 11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1972 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the municipality shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the municipality. Furthermore no person shall deceitfully impersonate or represent that he is any government officer or employee. (1972 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1972 Code, § 10-217)

11-504. Resisting or interfering with an officer. It shall be unlawful for any person to resist or in any way interfere with any police officer while the latter is in the discharge or apparent discharge of his duty. (1972 Code, § 10-210)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1972 Code, § 10-230)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

11-601. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive or other force-producing means or method. (1972 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1972 Code, § 10-214)

11-603. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1972 Code, § 10-212, modified)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing on trains.

11-702. Trespassing on posted property; defacing or destroying trespass notices.

11-703. Malicious mischief.

11-704. Interference with traffic.

11-701. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1972 Code, § 10-221)

11-702. Trespassing on posted property; defacing or destroying trespass notices. The owner of any lot or parcel of land within the city may post the same against trespassers. It shall be unlawful for any person to enter, drive upon, or park any motor vehicle on any such posted lot or parcel of land without the consent of the owner. No person shall deface or destroy any trespass notice posted pursuant to this section without the consent of the owner. (1972 Code, § 10-235)

11-703. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1972 Code, § 10-225)

11-704. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct or interfere with the free passage of pedestrian or vehicular traffic thereon. (1972 Code, § 10-232)

CHAPTER 8

MISCELLANEOUS

SECTION

- 11-801. Abandoned refrigerators, etc.
- 11-802. Caves, wells, cisterns, etc.
- 11-803. Posting notices, etc.
- 11-804. Curfew for minors.
- 11-805. Shoplifting.
- 11-806. Failure to appear.
- 11-807. Use of safety belts in passenger vehicles--violations--penalties--arrest--applicability.
- 11-808. Child passenger restraint systems--violations--penalties.
- 11-809. Trespass by motor vehicle.
- 11-810. Motor vehicle windows with tinting, reflecting or sun screen.
- 11-811. Transporting child in truck bed.
- 11-812. Crash helmet required for driver and passenger--exceptions.
- 11-813. Following too closely.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1972 Code, § 10-223)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1972 Code, § 10-231)

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster or other advertising device or sign upon any public or private property unless legally authorized to do so. (1972 Code, § 10-226)

11-804. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 P.M. unless upon a legitimate errand or accompanied by a parent, guardian, or other adult person having lawful custody of such minor. Furthermore, no person having the legal care and custody of any such minor shall allow or permit such minor, while in his legal custody, to go or be upon any of the streets or other public places in the city after 11:00 P.M. unless there exists a reasonable necessity therefor. (1972 Code, § 10-224)

11-805. Shoplifting. (1) It is declared to be unlawful for any person to shoplift within the corporate limits of the City of Athens, Tennessee.

(2) Any person who shall wilfully take possession of any goods, wares, or merchandise offered for sale by any store or other mercantile establishment with the intent of converting the same to his own use without paying the purchase price thereof is guilty of shoplifting.

(3) Any person wilfully concealing unpurchased goods or merchandise of any store or other mercantile establishment, either on the premises or outside the premises of such store, shall be prima facie presumed to have so concealed such articles with the intention of converting the same to his own use without paying the purchase price thereof.

(4) The finding of such unpurchased goods or merchandise concealed upon such person or among the belongings of such person shall be prima facie evidence of wilful concealment, and if such person conceals, or causes to be concealed, such unpurchased goods or merchandise upon the person, or among the belongings of another, the finding of the same shall be prima facie evidence of wilful concealment on the part of the person so concealing such goods.

(5) A peace officer or merchant or a merchant's employee who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person and that he can recover them by taking the person into custody, may for the purpose of attempting to effect such a recovery, take the person into custody and detain him in a reasonable manner for a reasonable length of time. Such taking into custody and detention by a peace officer, merchant, or merchant's employee shall not render such police officer, merchant, or merchant's employee criminally or civilly liable for false arrest, false imprisonment, or unlawful detention. (1972 Code, § 10-236)

11-806. Failure to appear. Hereafter when a person violates any traffic ordinance, law, or regulation of the city, to prevent the violator's arrest and issuance of a warrant against him or her, said offender must sign an agreement to appear at the time and place indicated and waive the issuance and service of a warrant upon him or her.

If the offender signs said agreement and waiver as provided herein and then fails to appear for trial at the time and place designated, then the city court shall immediately issue a warrant against said offender for said offense committed, and an additional warrant for the offense of violating his or her agreement to appear as provided in said agreement. Said warrants shall then be served upon said offender as provided by law.

It is the intention of this section to adopt and comply with Tennessee Code Annotated, §§ 7-63-101 through 7-63-106, as amended. Said sections are here referred to and made a part hereof, i.e., making it an offense for an offender to sign an agreement to appear in city court for the violation of the city code, law or regulation, and then fail to do so. (1972 Code, § 10-237)

11-807. Use of safety belts in passenger vehicles--violations--penalties--arrest--applicability. (1) (a) No person shall operate a passenger motor vehicle on any highway, as defined in Tennessee Code Annotated, § 55-8-101(22), in the City of Athens unless such person and all passengers four (4) years of age or older are restrained by a safety belt at all times the vehicle is in forward motion.

(b) No person four (4) years of age or older shall be a passenger in a passenger motor vehicle on any highway, as defined in Tennessee Code Annotated, § 55-8-101(22), in the City of Athens, unless such person is restrained by a safety belt at all times the vehicle is in forward motion.

(2) (a) The provisions of this section shall apply only to the operator and all passengers occupying the front seat of a passenger motor vehicle.

(b) If the vehicle is equipped with a rear seat which is capable of folding, the provisions of this section shall only apply to front seat passengers and the operator if the back seat is in the fold down position.

(3) As used in this section, unless specified otherwise, "passenger car" or "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of eight thousand five hundred pounds (8,500 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger car" or "passenger motor vehicle" does not apply to motor vehicles which are not required by federal law to be equipped with safety belts.

(4) (a) A violation of this section is a civil offense punishable by a fine of up to fifty dollars (\$50.00). All proceeds from the fines imposed by this subsection (3) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible handicapped individuals as defined in Tennessee Code Annotated, § 49-11-602(3) who have been severely injured in motor vehicle accidents.

(b) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of ten dollars (\$10.00) for a first violation, and twenty dollars (\$20.00) on second and subsequent violations to the city court clerk.

(c) (i) Notwithstanding subdivision (4)(b) to the contrary, a person charged with a violation of subsection (9) may, in lieu of appearance in court, submit a fine of twenty dollars (\$20.00) to the city court clerk.

(ii) Notwithstanding any provision of subdivision (4)(a) to the contrary, the revenue generated by ten dollars (\$10.00) of the twenty dollar (\$20.00) fine under subdivision (4)(c)(i) for a person's first conviction under subsection (9) shall be deposited in the state general fund without being designated for any specific purpose. The remaining ten dollars (\$10.00) of such twenty dollar (\$20.00) fine for such person's first conviction under subsection (i) shall be deposited in the state general fund and designated for the

exclusive use of the division of vocational rehabilitation in accordance with subdivision (4)(a).

(iii) The revenue generated from such person's second or subsequent conviction under subsection (9) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation in accordance with subdivision (4)(a).

(5) No clerk's fee nor court costs, including, but not limited to, any statutory fees of officers, shall be imposed or assessed against anyone convicted of a violation of this section. No litigation tax levied pursuant to the provisions of Tennessee Code Annotated, title 67, chapter 4, part 6, shall be imposed or assessed against anyone convicted of a violation of this section.

(6) (a) A law enforcement officer observing a violation of this section shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this section.

(b) The department of safety shall not report any convictions under this section except for law enforcement or governmental purposes.

(7) In no event shall a violation of this section be assigned a point value for suspension or revocation of a license by the department of safety, nor shall such violation be construed as any other offense under the provisions of this title.

(8) This section does not apply to:

(a) A passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety seat or safety belt; provided, that such condition is duly certified in writing by a physician who shall state the nature of the handicap, as well as the reason such restraint is inappropriate;

(b) A passenger motor vehicle operated by a rural letter carrier of the United States postal service while performing the duties of a rural letter carrier;

(c) Salespersons or mechanics employed by an automobile dealer who, in the course of their employment, test-drive a motor vehicle, if such dealership customarily test-drives fifty (50) or more motor vehicles a day, and if such test-drives occur within one (1) mile of the location of the dealership;

(d) Utility workers, water, gas and electric meter readers in the course of their employment;

(e) A newspaper delivery motor carrier service while performing the duties of a newspaper delivery motor carrier service; provided, that this exemption shall only apply from the time of the actual first delivery to the customer until the last actual delivery to the customer;

(f) A vehicle in use in a parade if operated at less than fifteen miles per hour (15 mph);

(g) A vehicle in use in a hayride if operated at less than fifteen miles per hour (15 mph); or

(h) A vehicle crossing a highway from one field to another if operated at less than fifteen miles per hour (15 mph).

(9) (a) Notwithstanding any provision of this section to the contrary, no person between sixteen (16) years of age and up to and through the age of seventeen (17) years of age, shall operate a passenger motor vehicle, or be a passenger therein, unless such person is restrained by a safety belt at all times the vehicle is in forward motion.

(b) Notwithstanding subdivision (2)(a), the provisions of this subsection (9) shall apply to all occupants between sixteen (16) years of age and eighteen (18) years of age occupying any seat in a passenger motor vehicle.

(c) Notwithstanding subdivision (6)(a), a law enforcement officer observing a violation of this subsection (9) shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this subsection (9).

(10) Notwithstanding the provisions of subsection (2), no person with a learner permit or an intermediate driver license shall operate a passenger motor vehicle in the City of Athens unless such person and all passengers between the ages of four (4) and seventeen (17) years of age are restrained by a safety belt at all times the vehicle is in forward motion.

The maximum penalty for a violation of this section shall be a civil fine not to exceed of fifty dollars (\$50.00). (as added by Ord. #931, Sept. 2005)

11-808. Child passenger restraint systems--violations--penalties.

(1) (a) Any person transporting any child, under one (1) year of age, or any child, weighing twenty pounds (20 lbs.) or less, in a motor vehicle upon a road, street or highway in the City of Athens is responsible for the protection of the child and properly using a child passenger restraint system in a rear facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(b) Notwithstanding the provisions of Tennessee Code Annotated, § 55-9-603, any person transporting any child, one (1) through three (3) years of age weighing greater than twenty pounds (20 lbs.), in a motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a child passenger restraint system in a forward facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(c) Notwithstanding the provisions of Tennessee Code Annotated, § 55-9-603, any person transporting any child, four (4)

through eight (8) years of age and measuring less than four feet, nine inches (4' 9") in height, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(d) (i) If a child is not capable of being safely transported in a conventional child passenger restraint system as provided for in this subsection (1), a specially modified, professionally manufactured restraint system meeting the intent of this subsection (1) shall be in use; provided, however, that the provisions of this subdivision (1)(d) shall not be satisfied by use of the vehicle's standard lap or shoulder safety belts independent of any other child passenger restraint system. A motor vehicle operator who is transporting a child in a specially modified, professionally manufactured child passenger restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system.

(ii) A person shall not be charged with a violation of this subsection (1) if such person presents a copy of the physician's prescription in compliance with the provisions of this subdivision (1)(d) to the arresting officer at the time of the alleged violation.

(iii) A person charged with a violation of this subsection (1) may, on or before the court date, submit a copy of the physician's prescription and evidence of possession of a specially modified, professionally manufactured child passenger restraint system to the court. If the court is satisfied that compliance was in effect at the time of the violation, the charge for violating the provisions of this subsection (1) may be dismissed.

(2) All passenger vehicle rental agencies doing business in the City of Athens shall make available at a reasonable rate to those renting such vehicles an approved restraint as described in subsection (1).

(3) (a) A violation of this section is a civil offense punishable by a fine of up to fifty dollars (\$50.00).

(b) In addition to or in lieu of the penalty imposed under subdivision (3)(a), persons found guilty of a first offense of violating this section may be required to attend a court approved offenders' class designed to educate offenders on the hazards of not properly transporting children in motor vehicles. A fee may be charged for such classes sufficient to defray all costs of providing such classes.

(4) Prior to the initial discharge of any newborn child from a health care institution offering obstetrical services, such institution shall inform the

parent that use of a child passenger restraint system is required by law. Further, the health care institution shall distribute to the parent related information provided by the department of safety.

(5) (a) (i) Notwithstanding the provisions of Tennessee Code Annotated, § 55-9-603, any person transporting any child, nine (9) through twelve (12) years of age, or any child through twelve (12) years of age, measuring four feet, nine inches (4' 9") or more in height, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a seat belt system meeting federal motor vehicle safety standards. It is recommended that any such child be placed in the rear seat if available.

(ii) Notwithstanding the provisions of Tennessee Code Annotated, § 55-9-603, any person transporting any child, thirteen (13) through fifteen (15) years of age, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a passenger restraint system, including safety belts, meeting federal motor vehicle safety standards.

(b) A person charged with a violation of this subsection (5) may, in lieu of appearance in court, submit a fine of fifty dollars (\$50.00) to the clerk of the court which has jurisdiction of such offense within the county in which the offense charged is alleged to have been committed.

(c) No litigation tax levied pursuant to the provisions of Tennessee Code Annotated, title 67, chapter 4, part 6, shall be imposed or assessed against anyone convicted of a violation of this subsection (5), nor shall any clerk's fee or court costs, including but not limited to any statutory fees of officers, be imposed or assessed against anyone convicted of a violation of this subsection (6).

(d) (i) Notwithstanding any provision of subsection (5) to the contrary, the revenue generated by ten dollars (\$10.00) of the fifty dollar (\$50.00) fine under subdivision (5)(b) for a person's first conviction under this subsection (5), shall be deposited in the state general fund without being designated for any specific purpose. The remaining forty dollars (\$40.00) of such fifty dollar (\$50.00) fine for a person's first conviction under this subsection (5) shall be deposited to the child safety fund in accordance with Tennessee Code Annotated § 55-9-602(f).

(ii) The revenue generated from such person's second or subsequent conviction under this subsection (5) shall be deposited to the child safety fund in accordance with Tennessee Code Annotated, § 55-9-602(f).

(e) Notwithstanding any provision of law to the contrary, no more than one (1) citation may be issued for a violation of this

subsection (5) per vehicle per occasion. If the driver is neither a parent nor legal guardian of the child and the child's parent or legal guardian is present in the vehicle, the parent or legal guardian is responsible for ensuring that the provisions of this subsection (5) are complied with. If no parent or legal guardian is present at the time of the violation, the driver is solely responsible for compliance with this subsection (5).

(6) As used in this section, unless specified otherwise, "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds (10,000 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger motor vehicle" does not apply to motor vehicles which are not required by federal law to be equipped with safety belts.

The maximum penalty for a violation of this section shall be a civil fine not in excess of fifty dollars (\$50.00). (as added by Ord. #931, Sept. 2005)

11-809. Trespass by motor vehicle. (1) Any person who drives, parks, stands, or otherwise operates a motor vehicle on, through or within a parking area, driving area or roadway located on privately owned property which is provided for use by patrons, customers or employees of business establishments upon such property, or adjoining property or for use otherwise in connection with activities conducted upon such property or adjoining property, after such person has been requested or ordered to leave the property or to cease doing any of the foregoing actions commits a civil offense. A request or order under this section may be given by a law enforcement officer or by the owner, lessee, or other person having the right to the use or control of the property, or any authorized agent or representative thereof, including, but not limited to, private security guards hired to patrol the property.

(2) As used in this section, "motor vehicle" includes an automobile, truck, van, bus, recreational vehicle, camper, motorcycle, motor bike, moped, go-cart, all terrain vehicle, dune buggy, and any other vehicle propelled by motor.

(3) A property owner, lessee or other person having the right to the use or control of property may post signs or other notices upon a parking area, driving area or roadway giving notice of this section and warning that violators will be prosecuted; provided, that the posting of signs or notices shall not be a requirement to prosecution under this section and failure to post signs or notices shall not be a defense to prosecution hereunder.

The maximum penalty for a violation of this section shall be a civil fine not in excess of fifty dollars (\$50.00). (as added by Ord. #931, Sept. 2005)

11-810. Motor vehicle windows with tinting, reflecting or sun screen.

(1) (a) It is lawful for any person to operate, upon a public highway, street or road, any motor vehicle registered in this state, in which any window, which has a visible light transmittance equal to, but not less than, that specified

in the Federal Motor Vehicle Safety Standard No. 205, has been altered, treated or replaced by the affixing, application or installation of any material which:

(i) Has a visible light transmittance of less than thirty-five percent (35%); or

(ii) With the exception of the manufacturer's standard installed shade band, reduces the visible light transmittance in the windshield below seventy percent (70%).

(b) Any person who installs window tinting materials for profit, barter, or wages and/or commissions is defined as a "professional installer" for the provisions of this section, and it is unlawful for a professional installer to apply tinting materials to any vehicle so as to cause that vehicle to be in violation of this section.

(c) All professional installers of window tinting materials shall supply and shall affix to the lower right corner of the driver's window an adhesive label, the size and style of which shall be determined by the commissioner of safety, which includes:

(i) The installer's business name; and

(ii) The legend "Complies with Tennessee Code Annotated, § 55-9-107."

(d) All professional installers of window tinting materials shall supply each customer with a signed receipt for each vehicle to which tinting materials have been applied which includes:

(i) Date of installation;

(ii) Make, model, paint color and license plate number and state;

(iii) The legend "Complies with Tennessee Code Annotated, § 55-9-107, at date of installation"; and

(iv) The legend "This receipt shall be kept with vehicle registration documents."

(e) The owner of any vehicle in question has the burden of proof that such vehicle is in compliance with the provisions of this section.

(f) Any vehicle model permitted by federal regulations to be equipped with certain windows tinted so as to not to conform to the specifications of subdivision (1)(a)(i) is exempt from subdivision (1)(a)(i) with respect to those certain windows. Likewise, vehicles bearing commercial license plates or government service license plates that are used for law enforcement purposes shall be exempt from the specifications of subdivision (1)(a)(i) for those windows rearward of the front doors. This subsection (1) shall not be constructed in any way to exempt the front door windows of any vehicle of any kind from the specifications of subdivision (1)(a)(i).

(2) (a) Notwithstanding the provisions of subdivision (1)(a) to the contrary, any person with a medical condition that is adversely affected by ultraviolet light may submit a statement to the commissioner from

that person's physician certifying that the person has a medical condition which requires reduction of light transmission in the windows of such person's vehicle in excess of the standards established in subsection (1). The commissioner shall submit the certified statement to the department's medical review board for evaluation. If the review board finds the exemption warranted, it shall recommend that the commissioner authorize the exemption, and the degree of tinting exemption which is appropriate. The commissioner shall then supply a certificate or decal, indicating the degree of exemption, to the applicant who shall display it in the motor vehicle.

(b) Any applicant aggrieved by a decision of the medical review board or the commissioner may appeal in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The appeal may be made to the chancery court of the county where the aggrieved applicant resides at the option of the applicant.

(3) It is probable cause for a full-time, salaried police officer of this state to detain a motor vehicle being operated on the public roads, streets or highways of this state when such officer has a reasonable belief that the motor vehicle is in violation of subdivision (1)(a), for the purpose of conducting a field comparison test.

(4) It is a civil offense for the operator of a motor vehicle to refuse to submit to the field comparison test when directed to do so by a full-time, salaried police officer, or for any person to otherwise violate any provisions of this section.

(5) The commissioner of safety shall establish a standardized method and procedure by which law enforcement officers can readily, and with reasonable accuracy, conduct a field comparison test to determine if a motor vehicle's windows are in compliance with this section.

The maximum penalty for a violation of this section shall be a civil fine not in excess of fifty dollars (\$50.00). (as added by Ord. #931, Sept. 2005)

11-811. Transporting child in truck bed. (1) A person commits an offense who, on the streets of any municipality, roads of any county, or the highways of this state, transports a child under six (6) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style.

(2) (a) A person commits an offense who, on any interstate defense highway or state highway, transports a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style.

(b) A city or county may prohibit, by ordinance or resolution, a person from transporting a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton

rating not exceeding three-quarter (3/4) ton and having a pickup body style on city or county roads or highways.

(3) The provisions of this section do not apply to a person transporting such child in the bed of such vehicle when such vehicle is being used as part of an organized parade, procession, or other ceremonial event, and when such vehicle is not exceeding the speed of twenty miles per hour (20 mph).

(4) The provisions of this section do not apply when the child being transported is involved in agricultural activities.

(5) A violation of (1) or (2)(a) is a civil offense.

The maximum penalty for a violation of this section shall be a civil fine not in excess of fifty dollars (\$50.00). (as added by Ord. #931, Sept. 2005)

11-812. Crash helmet required for driver and passenger--exceptions. (1) The driver of a motorcycle, motorized bicycle, as defined in chapter 8 of this title, or motor-driven cycle, and any passenger on any of these, shall be required to wear either a crash helmet meeting federal standards contained in 49 CFR § 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(a) Except as provided in subdivisions (1)(b)-(d), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR § 571.218;

(b) Notwithstanding any provision in 49 CFR § 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed on and on-half inches (1 ½") in diameter;

(c) Notwithstanding any provision in 49 CFR § 571.218, the protective surface shall not be required to be a continuous contour; and

(d) Notwithstanding any provision in 49 CFR § 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CPSC), the Southern Impact Research Center (SIRC), or the Snell Foundation.

(2) This section does not apply to persons riding:

(a) Within an enclosed cab;

(b) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(c) Golf carts; or

(d) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

The maximum penalty for a violation of this section shall be a civil fine not in excess of fifty dollars (\$50.00). (as added by Ord. #931, Sept. 2005)

11-813. Following too closely. (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2) The driver of any motor truck or motor vehicle towing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle towing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle towing another vehicle from overtaking or passing any like vehicle or other vehicle.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

(4) No motor truck of more than one and one-half (1 ½) ton rated capacity shall approach any other motor truck of like or greater capacity proceeding in the same direction on any of the highways of this state without the corporate limits of any municipality at a distance nearer than three hundred feet (300'), except in overtaking and passing such other trucks, or unless one (1) or both of such trucks shall have come to a stop or except in rendering assistance to a disabled or partly disabled truck.

(5) a violation of this section is a civil offense.

The maximum penalty for a violation of this section shall be a civil fine not in excess of fifty dollars (\$50.00). (as added by Ord. #931, Sept. 2005)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. COMMERCIAL, BUSINESS, AND INDUSTRIAL STRUCTURES CODE.
7. MECHANICAL CODE.
8. ENERGY CONSERVATION CODE.
9. ACCESSIBILITY CODE.
10. RESIDENTIAL BUILDING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in city manager's office.
- 12-104. Buildings must front on "existing" streets.
- 12-105. Movement of buildings restricted.
- 12-106. Violations.

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 construction, maintenance, removal and demolition of every building or structure or any appurtenance connected or attached to any building, the International Building Code, 2009 edition², as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as

¹Municipal 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.

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

part of this code, as is hereinafter referred to as the building code. (1972 Code, § 4-101, modified, as replaced by Ord. #836, § 1, Oct. 1997, amended by Ord. #860, Aug. 1999, replaced by Ord. #960, July 2007, and amended by Ord. #1008, Aug. 2012)

12-102. Modifications. (1) Whenever the building code refers to the "chief appointing authority" or the "chief administrator," it shall be deemed to be a reference to the "city manager."

(2) Subsections 102.1 and 102.2 of section 102 of the building code are amended in their entirety to read as follows:

102.1 Community Development Director.

(a) There is hereby established a department to be called the Department of Community Development which shall be in charge of the building programs.

(b) The Community Development Director shall be appointed by and serve at the pleasure of the city manager.

102.2 Inspectors.

The Community Development Director, with the approval of the City Manager, may appoint such number of officers, inspectors, assistants, and other employees as shall be authorized from time to time.

(3) Section 108 of the building code, "Board of Adjustments and Appeals," is amended in its entirety to read as follows:

The Board of Housing Appeals provided for in § 12-519 of the Athens Municipal Code is hereby designated to serve also as the Board of Adjustments and Appeals for the building code.

Three members of the board shall constitute a quorum. In varying the application of any provisions of this code or in modifying an order of the Community Development Director, affirmative votes of the majority present, but not less than three affirmative votes shall be required. No board member shall act in a case in which he has a personal interest.

The Community Development Director shall act as Secretary of the Board of Adjustments and Appeals and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.

The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board may meet at regular intervals, to be determined by the Chairman, or in any event, the board shall meet within ten days after notice of an appeal has been received. (1972 Code, § 4-102, modified, as amended by Ord. #960, July 2007)

12-103. Available in city manager'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 city manager's office and shall be kept there for the use and inspection of the public. (1972 Code, § 4-103, modified)

12-104. Buildings must front on "existing" streets. No building shall be constructed on any newly created lot which does not abut on an "existing" street, as defined in § 16-401(2) of this code, for at least forty (40) feet, excluding flag lots. (1972 Code, § 4-104, as amended by Ord. #960, July 2007, and replaced by Ord. #984, March 2010)

12-105. Movement of buildings restricted. It shall be unlawful for any person to move any building without a moving permit. Furthermore, no single-family dwelling, including manufactured homes, having less than nine hundred (900) square feet shall be moved into the corporate limits. (1972 Code, § 4-105, modified, as amended by Ord. #1008, Aug. 2012)

12-106. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of this chapter or the building code as herein adopted by reference and modified. (1972 Code, § 4-106)

CHAPTER 2

PLUMBING CODE¹

SECTION

12-201. Plumbing code adopted.

12-202. Modifications.

12-203. Available in city manager's office.

12-204. Violations.

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 municipality, when such plumbing is or is to be connected with the municipal water and sewer system, the International Plumbing Code, 2009 edition², as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as part of this code, and is hereinafter referred to as the plumbing code. (1972 Code, § 4-201, modified, as amended by Ord. #836, § 2, Oct. 1997, replaced by Ord. #960, July 2007, and amended by Ord. #1008, Aug. 2012)

12-202. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," or the "Administrative Authority," it shall be deemed to be a reference to the city manager.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the plumbing code. (1972 Code, § 4-202, modified)

12-203. Available in city manager'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 city manager's office and shall be kept there for the use and inspection of the public. (1972 Code, § 4-203, modified)

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. Furthermore, the plumbing official may discontinue or refuse water service to any premises where the plumbing does not comply with this chapter and/or the plumbing code. (1972 Code, § 4-204)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in city manager's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations.
- 12-305. Enforcement.
- 12-306. Fees.

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 regulating conditions hazardous to life and property from fire or explosion, the NFPA 70 National Electrical Code, 2008 edition², as prepared and adopted by the National Fire Protection Association and chapter 0780-2-1 of the 2009 edition Electrical Installation as adopted by the Department of Commerce and Insurance are hereby adopted and incorporated by reference as part of this code, and is hereafter referred to as the electrical code. Said National Electrical Code is adopted and incorporated fully as set out at length herein with the following addendum: all commercial and industrial buildings shall be wired in a metal raceway. (1972 Code, § 4-301, as replaced by Ord. #813, June 1996, amended by Ord. #860, Aug. 1999, and Ord. #903, Oct. 2002, replaced by Ord. #960, July 2007, and amended by Ord. #1003, May 2012)

12-302. Available in city manager'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 city manager's office and shall be kept there for the use and inspection of the public. (1972 Code, § 4-302, modified)

12-303. Permit required for doing electrical work. No electrical work shall be done within this municipality until a permit therefor has been issued by the municipality. 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. (1972 Code, § 4-303)

¹Municipal code reference

Fire protection, fireworks and explosives: title 7.

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

12-304. Violations. 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. (1972 Code, § 4-304)

12-305. Enforcement. The electrical inspector shall be such person as the city manager 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 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 that was in effect at the time of construction. (1972 Code, § 4-305, modified)

12-306. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143 for electrical inspections by deputy inspectors of the state fire marshal, said fees to be paid over to the city. The city reserves the right to round up to the nearest whole dollar of said fee. (1972 Code, § 4-306, modified)

CHAPTER 4

GAS CODE¹

SECTION

- 12-401. Title and definitions.
- 12-402. Purpose and scope.
- 12-403. Use of existing piping and appliances.
- 12-404. Bond and license.
- 12-405. Gas inspector and assistants.
- 12-406. Powers and duties of inspector.
- 12-407. Permits.
- 12-408. Inspections.
- 12-409. Certificates.
- 12-410. Fees.
- 12-411. Violations and penalties.
- 12-412. Nonliability.

12-401. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the city and may be cited as such.

The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "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 city manager.

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

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

(4) "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.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1972 Code, § 4-401)

12-402. Purpose and scope. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and

¹Municipal code reference

Gas system administration: title 19, chapter 2.

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, 2006 edition¹, as prepared and adopted by the International Code Council which is hereby incorporated by reference and made part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the city manager for the use and inspection of the public. (1972 Code, § 4-402, modified, as replaced by Ord. #960, July 2007)

12-403. 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. (1972 Code, § 4-403)

12-404. 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 city manager a good and sufficient bond in the penal sum of \$25,000, 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 manager, 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 manager 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 manager.

(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

¹Copies 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. (1972 Code, § 4-404)

12-405. 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 by the city manager. (1972 Code, § 4-405)

12-406. 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. (1972 Code, § 4-406)

12-407. 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 city; 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 inspector 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. (1972 Code, § 4-407)

12-408. 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 (6) inches 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. (1972 Code, § 4-408)

12-409. 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. (1972 Code, § 4-409)

12-410. Fees. (1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspection) shall be \$1.50 for one to five outlets, inclusive, and \$0.50 for each outlet above five.

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be \$1.50 for each unit.

(3) The fees for inspecting vented wall furnaces and water heaters shall be \$1.00 for each unit.

(4) If the inspector is called back, after correction of defects noted, an additional fee of \$1.00 shall be made for each such return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1972 Code, § 4-410)

12-411. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1972 Code, § 4-411)

12-412. Nonliability. This chapter shall not be construed as imposing upon the city 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 city, 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. (1972 Code, § 4-412)

CHAPTER 5

HOUSING CODE

SECTION

- 12-501. Scope and application.
- 12-502. Definitions.
- 12-503. Minimum standards for lighting.
- 12-504. Minimum standards for ventilation.
- 12-505. Minimum standards for heating.
- 12-506. Minimum standards for basic equipment and facilities.
- 12-507. Basements and cellars.
- 12-508. Space requirements.
- 12-509. Egress.
- 12-510. Infestation.
- 12-511. Responsibilities of the occupant.
- 12-512. Responsibilities of the owner.
- 12-513. Conditions of structures.
- 12-514. Minimum standards for rooming houses.
- 12-515. Duties of the inspector.
- 12-516. Administrative rules and regulations.
- 12-517. Emergency powers.
- 12-518. Service of notices and orders.
- 12-519. Board of housing appeals.
- 12-520. Hearings.
- 12-521. Appeal to court.
- 12-522. Violations.
- 12-523. Conflicting provisions.

12-501. Scope and application. Every building used in whole or in part as a dwelling unit or as two or more dwelling units shall conform to the requirements of this chapter irrespective of the class to which such buildings may otherwise belong, and irrespective of when such buildings may have been constructed, altered or repaired.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of §§ 12-503 through 12-513. (1972 Code, § 4-501)

12-502. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Approved" shall mean constructed, installed and maintained in accordance with the provisions of this chapter and other pertinent provisions of this code and with rules and regulations adopted pursuant hereto.

(2) "Basement" shall mean a portion of a building located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

(3) "Board of Housing Appeals" shall mean the board established by § 12-519 of this code.

(4) "Cellar" shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

(5) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto and enjoyed therewith.

(6) "Dwelling unit" shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

(7) "Extermination" shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the inspector.

(8) "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(9) "Habitable room" shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors, closets or storage spaces.

(10) "Household" shall mean all persons who occupy a dwelling unit. A person living alone or any group of persons sharing a dwelling unit is a household.

(11) "Infestation" shall mean the presence, within or around a dwelling, of any insects, rodents, or other pests.

(12) "Inspector" shall mean the person designated by the city manager to carry out the duties of inspector as stated in §§ 12-515 through 12-519.

(13) "Multiple dwelling" shall mean any dwelling containing more than two dwelling units.

(14) "Occupant" shall mean any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

(15) "Ordinary minimum winter conditions" shall mean a temperature of 0°F.

(16) "Owner" is deemed to mean and include a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

(17) "Parties in interest" shall mean all individuals, associations, partnerships, corporations, and others who have any interest in a dwelling and

any who are in possession or control thereof as agent of the owner or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such person thus representing the owner or owners shall be bound to comply with the provisions of this chapter and of the rules and regulations adopted pursuant hereto, to the same extent as if he were the owner.

(18) "Plumbing" shall mean and include all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

(19) "Premises" shall mean any platted or unplatted lot, parcel or plot of land, improved or unimproved with any dwelling or non-dwelling structure.

(20) "Public hall" shall mean any hall, corridor or passageway not within the exclusive control of one family.

(21) "Rooming unit" shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(22) "Rooming house" shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the occupant to three or more persons who are not husband, wife, son, daughter, mother, father, sister or brother of the occupant.

(23) "Rubbish" shall mean all waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

(24) "Single unit dwelling" shall mean a dwelling occupied by one family alone.

(25) "Supplied" shall mean paid for, furnished, or provided by, or under the control of, the owner or operator, his agents and/or representatives.

(26) "Water closet" shall mean a toilet, with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer system.

(27) "Workmanlike state of maintenance and repair" shall mean in such a state as to comply with all codes and ordinances pertaining to construction of buildings and installation of utilities.

(28) "Meanings of certain words." Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this chapter, they shall be construed as though they were followed by the words, "or any part thereof." (1972 Code, § 4-502, modified)

12-503. Minimum standards for lighting. Where there is electric service available from power lines which are not more than 300 feet away from a

dwelling, every habitable room in such dwelling shall contain one electric outlet, and every bathroom, laundry room, furnace room, and public hall shall contain at least one ceiling or wall type electric light fixture. Every such outlet and fixture shall be in working condition and installed in accordance with the requirements of the electric code.

Every habitable room shall have at least one window or skylight facing directly to the outside or other means of lighting which is approved as adequate by the inspector. The minimum total window area for every habitable room shall be 10 per cent of the total floor area of such room unless the only window in the room is the skylight type, then the minimum total window area shall be 15 per cent of total floor area of such room, except where other means of artificial lighting are approved.

Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in a structure containing not more than four dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed instead of full-time lighting.

Bathrooms shall conform to the lighting requirements for habitable rooms. (1972 Code, § 4-503)

12-504. Minimum standards for ventilation. Every habitable room shall have at least one window or skylight opening directly to the outdoors which can easily be opened, or such other device as will adequately ventilate such room. The minimum total openable window area in every habitable room shall be equal to one-half of the minimum total window area required in § 12-503, except where there is supplied some other device affording adequate ventilation and approved by the inspector. (1972 Code, § 4-504)

12-505. Minimum standards for heating. Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms and bathrooms.

All gas-burning room heaters shall be vented to the outside air by a smoke pipe or flue. Rubber tube or armoured rubber tube connections on gas heating fixtures are prohibited. (1972 Code, § 4-505)

12-506. Minimum standards for basic equipment and facilities. The following minimum standards for basic equipment and facilities are prescribed:

(1) Water supply: There shall be a potable supply of running water piped into each dwelling unit.

(2) Sewerage: In every dwelling, plumbing fixtures shall be properly installed, properly connected to the water supply and sewer systems, approved by the inspector and maintained in good working order.

(3) Sanitary equipment: Every dwelling unit shall contain a sink, tub or shower, and a lavatory in a room affording privacy, properly connected to a hot water supply and sewer system.

(4) Sink: Every dwelling unit shall contain a kitchen sink which is properly connected to the hot water supply and sewer system.

(5) Water closets: Every dwelling unit shall have a flush type water closet located therein.

(6) Water heating facilities: Every dwelling shall have water heating facilities properly connected to the water piping system, and such facilities shall have a capacity to supply a sufficient quantity of water to each fixture connected at a minimum temperature of 120°F. (1972 Code, § 4-506)

12-507. Basements and cellars. No cellar space shall be used as a habitable room.

Basement space may be used as a habitable room if:

(1) The windows are sufficiently above the lot's ground level so as to allow the room to meet requirements of habitable rooms as to light and ventilation (§§ 12-503 and 12-504); and if

(2) The floors below grade level of the lot are impervious to water and free from dampness at all times; and if

(3) The clear inner height is at least 6 feet 8 inches, and no pipes or beams are below 6 feet from the floor level. (1972 Code, § 4-507)

12-508. Space requirements. The number of persons occupying any dwelling unit shall be limited by the following requirements:

(1) Sleeping rooms: Every sleeping room for one occupant shall have at least 70 square feet of floor space, or if occupied by more than one person, at least 50 square feet per occupant.

(2) Size of dwelling unit: The total of all habitable rooms in a dwelling unit shall be such as to provide at least 600 square feet of floor space for the first occupant and 100 square feet of floor space for each additional occupant. Provided that in the case of municipally sponsored low rental housing, the size of an efficiency dwelling unit that combines the living room and bedroom shall have at least 500 square feet of floor space for the first occupant and 100 square feet for each additional occupant.

(3) Minimum height of habitable rooms: Every habitable room shall be not less than 7 feet in height from the floor to the ceiling throughout one-half of the area of such room. Any portion of a room having a ceiling height of less than 5 feet shall not be considered in computing the total floor area for such room.

(4) No habitable room shall contain less than 70 square feet of floor area, nor shall the least horizontal dimension of such room be less than 7 feet. (1972 Code, § 4-508)

12-509. Egress. Every dwelling unit shall have a safe, unobstructed means of egress to a safe and open space at ground level. All structures of three or more stories with a dwelling unit occupying the third or higher story shall be provided with two separate, usable, unobstructed means of egress for each dwelling unit located above the second story. The exit facilities from such dwelling units shall lead to a public thoroughfare either directly or through a court or yard, and passage to such exits shall not lead through any other dwelling unit or through a space that might reasonably be locked by anyone who is not a member of the household. An escape hatch or scuttle to a flat roof for escape through adjoining buildings may be considered as a usable means of egress for the dwelling unit occupying the top floor.

Dual egress will not be required of structures that are of fully fireproof construction. (1972 Code, § 4-509)

12-510. Infestation. During that portion of each year extending from May 1st through September 30th, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device; and every window or other device with openings to outdoor space used or intended to be used for ventilation shall likewise be equipped with screens or other insect deterrents.

Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be permanently equipped with screens or such other device as will effectively prevent their entrance.

During the summer months, there shall be no standing pools of water which might provide a breeding place for mosquitoes.

Dwellings should be free from rodents and other vermin at all times. Responsibility for extermination rests with the occupant or owner as set forth in §§ 12-511 and 12-512. (1972 Code, § 4-510)

12-511. Responsibilities of the occupant. The responsibilities of the occupant are as follows:

(1) To keep the dwelling and premises he controls and occupies in a clean and sanitary condition.

(2) To dispose of rubbish and garbage in a clean and sanitary manner as prescribed by city regulations.

(3) To hang and remove screens provided by the owner except where the owner has agreed to supply such services.

(4) To keep plumbing fixtures therein in a clean and sanitary condition and to exercise reasonable care in the proper use and operation thereof.

(5) To exterminate in the following cases:

(a) The occupant of a single dwelling is responsible for extermination of any insects, rodents or other pests therein or on the premises.

(b) The occupant of a dwelling unit in a multiple-unit structure is responsible for extermination of any insects, rodents or other pests if his unit is the only unit infested.

Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by the failure of the owner to maintain the dwelling in a ratproof or reasonably insectproof condition, the occupant is not responsible for extermination of any insects, rodents, or other pests therein. (1972 Code, § 4-511)

12-512. Responsibilities of the owner. The responsibilities of the owner are as follows:

(1) To let no dwelling to anyone for occupancy unless it meets minimum standards set forth in §§ 12-503 through 12-513.

(2) To have the dwelling in a clean, sanitary and habitable condition; to free from infestation before renting; to paint walls and ceilings and to clean, repair and exterminate if necessary to meet aforesated requirements before offering for rent.

(3) To provide screens to be hung.

(4) To exterminate in the following cases:

(a) When infestation exists in two or more units of a multiple-unit structure.

(b) When infestation exists in shared or public areas of a multiple-unit structure.

(c) When infestation exists in a single unit of a multiple-unit structure or in a single-unit structure when infestation is due to failure of the owner to maintain the dwelling in a ratproof and reasonably insectproof condition.

(5) Vacant buildings to be kept locked. It shall be the duty of the owner of any vacant building within the City of Athens to keep all doors, windows and other openings in such building locked or otherwise secured so as to prevent unauthorized persons from entering such buildings.

(6) Damaged buildings to be secured. It shall be the duty of the owner of any building which has been damaged by fire, wind or any other act of God or man, to fence or close all openings or otherwise secure such building within ten (10) days from the date of damage to said building so as to prevent children or any unauthorized person from entering. (1972 Code, § 4-512)

12-513. Conditions of structures. (1) All dwelling structures shall be watertight, weatherproof, rodent and insectproof and in good repair.

(2) Every foundation, exterior wall and roof shall be reasonably watertight, weathertight and rodentproof, shall adequately support the building at all times, and shall be in a workmanlike state of maintenance and repair.

(3) Every interior partition, wall, floor and ceiling shall be reasonably tight, capable of affording privacy and maintained in a workmanlike state of repair and in a clean and sanitary condition.

(4) All rainwater shall be so drained and conveyed from every roof, and the lot shall be so graded and drained as not to cause dampness in the walls, ceiling, floors or basement of any dwelling.

(5) Every window, exterior door and basement hatchway shall be reasonably weathertight, watertight and rodentproof, and shall be maintained in sound condition and repair.

(6) Every inside and outside stairway, every porch and every appurtenance thereto shall be so constructed as to be safe for use and capable of supporting the load that normal use may cause to be placed thereon and shall be maintained in sound condition and repair.

(7) Every supplied plumbing fixture and water and waste pipe shall be properly installed and maintained in a sanitary working condition, free from defects, leaks and obstructions.

(8) Every toilet, bathroom and kitchen floor shall be constructed and maintained so as to be reasonably impervious to water, and such floor shall be kept in a clean and sanitary condition.

(9) Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed and installed that it will function safely and effectively, and shall be maintained in good working condition. (1972 Code, § 4-513)

12-514. Minimum standards for rooming houses. No person shall operate a rooming house or let to another for occupancy any room unless such rooming house or room complies with the following requirements:

(1) Every rooming house and room shall comply with the minimum standards set forth in §§ 12-503, 12-504, 12-505 and 12-508 as to light, ventilation, heating and space requirements.

(2) Every rooming house shall be equipped with at least one flush water closet, one lavatory and one tub or shower for each eight persons or fraction thereof within the rooming house, including members of the family if they are to share the use of the facilities. In rooming houses in which rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets. All such facilities shall be properly connected to the water supply and sewer systems.

(3) Every flush water closet, flush urinal, lavatory, tub or shower required above shall be located within the rooming house in a room, or rooms, which:

(a) Affords privacy.

(b) Is accessible by a common hall without going outside the rooming house.

(c) In accessible from a common hall without going through sleeping quarters of others.

(d) Is not more than one story removed from the room of any occupant intended to share the facilities.

(4) Where bedding, bed linen or towels are supplied, the operator shall maintain the bedding in a clean and sanitary manner, shall furnish clean bed linen and towels at least once each week and prior to the letting of any room to an occupant. (1972 Code, § 4-514)

12-515. Duties of the inspector. The inspector or his duly authorized representative is hereby authorized, upon showing proper identification, to enter, examine, and survey at any reasonable time all dwellings, dwelling units, rooming units, and premises located within the city. The occupant of every dwelling, dwelling unit, rooming unit, or the person in charge thereof, shall give the inspector or his representative free access to such dwellings, dwelling units, rooming units, and premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or a dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purposes of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule, regulation or order adopted or issued pursuant to the provisions of this chapter. (1972 Code, § 4-515)

12-516. Administrative rules and regulations. The inspector is hereby authorized to make and adopt such written rules and regulations as may be necessary for the proper enforcement of the provisions of this chapter; provided that such rules and regulations shall not be in conflict with the provisions of this chapter. The inspector shall file a certified copy of all rules and regulations which he may adopt in the office of the City of Athens. Such rules and regulations shall have the same force and effect as the provisions of this chapter and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter. (1972 Code, § 4-516)

12-517. Emergency powers. The inspector is hereby granted certain emergency powers. Whenever the inspector finds that a condition exists which requires immediate action to protect the public health or safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this code, such order shall be effective immediately. Any person on whom such an order is directed shall comply therewith immediately, but upon a petition shall be afforded a hearing by the board of housing appeals as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this chapter have

been complied with, the board shall continue such order in effect, or modify it, or revoke it. (1972 Code, § 4-517)

12-518. Service of notices and orders. (1) Whenever at least five residents of the city charge that any dwelling is unfit for human habitation, or whenever the inspector determines that there has been a violation, or that there are reasonable grounds to believe that there has been a violation of any provision of this chapter or of any rule or regulation adopted pursuant hereto, he shall give notice to the person or persons responsible therefor. Such notice shall:

(a) Be in writing.

(b) Include such description of the real estate as is sufficient for identification.

(c) Include a statement of the reason or reasons why the notice is being issued.

(d) Inform the violator of his right to petition for a hearing before the board of housing appeals, and specify that this petition must be received within twenty days after the notice was served.

(e) Be served upon the owner, or the occupant, as the case may require; provided, that such notice shall be deemed to be properly served upon such violator if a copy thereof is delivered to him personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, and the inspector shall make an affidavit to that effect, then the serving of such notice or order may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the municipality, or in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the dwelling is located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the notice or order. A copy of such notice or order shall also be filed for record in the register's office of the county in which the dwelling is located, and the filing of such notice or order shall have the same force and effect as other lis pendens notices provided by law.

(2) Such notice may include an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant hereto. (1972 Code, § 4-518)

12-519. Board of housing appeals. There is hereby created and established a board of housing appeals, hereinafter referred to as the board, which shall consist of the inspector and five members appointed by the mayor and approved by a majority vote of the city council. All appointed members shall be registered voters of the city and they shall not receive any remuneration for their services. Initially two members shall be appointed for two-year terms,

and three for three-year terms, and they may be reappointed at the expiration of their terms. All future appointments shall be for two-year terms. The appointed members shall not be candidates for public office at the time of their appointment, and if later they become such they must retire from the board. A vacancy shall be filled by the mayor for the unexpired term of the member whose term becomes vacant. The members shall be removable for cause by the mayor upon written charges and after a public hearing.

The board shall meet within ten days after its appointment and shall elect a chairman from among its membership. The elected member shall be chairman until the expiration of his term. A vice-chairman shall also be elected. His duties are to assume the responsibilities of the chairman in the latter's absence. The duties of the chairman are to preside over the hearings and to question petitioners. The chairman may vote on all matters. The rules of evidence prevailing in courts of law and equity shall not be controlling on hearings. The inspector shall serve as the permanent secretary of the board, but he shall not vote on any matter. The board shall adopt such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter.

The inspector shall call meetings and shall notify board members. In open meetings the board shall hear appeals. The presence of three members shall constitute a quorum and the concurring vote of three members shall be necessary to reverse or modify any order or notice of the inspector. The proceedings at such hearings, including the findings and decisions of the board shall be summarized, reduced to writing, and entered as a matter of public record in the office of the City of Athens.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the board; provided that such person shall file in the office of the City of Athens a written petition requesting such hearing and setting forth a statement of the grounds therefor within twenty days after the date the notice was served. Within ten days after receipt of the petition the inspector shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing before the board shall be commenced not later than thirty days after the date on which the petition was filed; provided that, upon written application of the petitioner to the board, the date of the hearing may be postponed beyond the thirty day period if the petitioner shows good and sufficient reason why it should be postponed. Any notice served automatically becomes an order if a written petition for hearing is not filed in the office of the City of Athens within twenty days after the notice is served. (1972 Code, § 4-519)

12-520. Hearings. After such hearings, the board shall sustain, modify, or withdraw the notice, depending upon its findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant hereto have been complied with. The board may also modify any notice so as to authorize a variance from the provisions of this chapter when because of special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship; provided, that the spirit of this chapter will be observed, public health and welfare secured and substantial justice done. The board may also extend the time specified for compliance if the case warrants. If the board sustains or modifies such notice, it shall be deemed to be an order and the violator shall comply with all provisions of such order within the afore specified length of time. (1972 Code, § 4-520)

12-521. Appeal to court. Any person or persons, jointly or severally, aggrieved by any decision of the board, or any taxpayer, or any officer, department, board or bureau of the municipality, may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state. (1972 Code, § 4-521)

12-522. Violations. If a person upon whom a notice has been served does not, within the specified period after the notice was served, commence compliance with the directives thereof, or, within the specified time, petition the board, or if, after the board's hearing, he does not comply with the decision thereof, such person shall be fined under the general penalty clause for this code. (1972 Code, § 4-522)

12-523. Conflicting provisions. In any case where a provision in this chapter is found to be in conflict with any other provision in this code, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. (1972 Code, § 4-523)

CHAPTER 6

COMMERCIAL, BUSINESS, AND INDUSTRIAL STRUCTURES CODE

SECTION

- 12-601. Reasons for and purposes of code.
- 12-602. Definitions.
- 12-603. Applicability.
- 12-604. Duties and responsibilities of owner and operator.
- 12-605. Duties and responsibilities of operator.
- 12-606. Administrative provisions.

12-601. Reasons for and purposes of code. It is hereby found and declared that there exist in the City of Athens structures used for commercial, business, or industrial use which are, or may become in the future, substandard with respect to structure, equipment, or maintenance, or further, that such conditions, including, but not limited to, structural deterioration, lack of maintenance, and appearance of exterior of premises, infestation, plumbing, lack of maintenance or upkeep of essential facilities and utilities, existence of fire hazards, inadequate provisions for light and air and unsanitary conditions, constitute a menace to the health, safety, morals, welfare, and reasonable comfort of the citizens and inhabitants of the City of Athens. It is further found and declared that by reason of lack of maintenance and progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of neighborhoods enhanced, and the public health, safety, and welfare protected and fostered.

The purpose of this code is to protect the public health, safety, morals, and welfare by establishing minimum standards governing the maintenance, appearance, and condition of commercial, business, and industrial premises; to establish minimum standards governing utilities, facilities, and other physical components and conditions essential to make the aforesaid facilities fit for occupancy and use; to fix certain responsibilities and duties upon owners and operators; to authorize and establish procedures for the inspection of commercial, business, and industrial premises; to fix penalties for the violations of this code, and to provide for the repair, demolition, or vacation of commercial, business, or industrial premises. This code is hereby declared to be remedial and essential for the public interest and it is intended that this code be liberally construed to effectuate the purposes as stated herein. (1972 Code, § 4-601)

12-602. Definitions. The following terms wherever used herein or referred to in this code shall have the respective meanings assigned to them unless a different meaning clearly appears from the context.

(1) "Accessory structure." A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

(2) "Building." A combination of materials to form a construction adapted to permanent or continuous occupancy or use for public, institutional, residence, business, or storage purposes.

(3) "Building code." The building code of the City of Athens.

(4) "Code officer." The code officer is the person appointed to administer and enforce the provisions of this commercial code as well as all the housing codes under Title 12 of the city code.

(5) "Deterioration." The condition or appearance of a building or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay or neglect, excessive use, or lack of maintenance.

(6) "Exposed to public view." Any premises, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by the public, or any member thereof, from a sidewalk, street, alleyway, licensed open air parking lot, or from any adjoining or neighboring premises.

(7) "Exterior of premises." Those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.

(8) "Extermination." The control and elimination of insects, rodents, and vermin by eliminating their harborage places; by removing or making inaccessible material that may serve as their food by poisoning, spraying, fumigating, trapping, or by any other approved means of pest elimination.

(9) "Fire chief." The fire chief of the City of Athens.

(10) "Fire hazard." (Also see nuisance) Any thing or any act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire; or which may obstruct, delay, or hinder or may become the cause of an obstruction, a delay, a hazard or a hindrance to the prevention, suppression, or extinguishment of fire.

(11) "Garbage." (Also see refuse, rubbish) Putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

(12) "Health officer." The health officer of the Hiwassee Health District.

(13) "Infestation." The presence of insects, rodents, vermin, or other pests on the premises which constitute a health hazard.

(14) "Mixed occupancy." Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to non-dwelling uses.

(15) "Nuisance." (a) Any public nuisance known as common law or in equity jurisprudence, or as provided by the statutes of the State of Tennessee or the ordinances of the City of Athens.

(b) Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to, abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, oak, or sumac, which may prove a hazard for inquisitive minors.

(c) Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the condition exists.

(d) Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this code.

(e) Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings.

(f) Fire hazards.

(16) "Operator." Any person who has charge, care, or control of premises, or a part thereof, whether with or without the knowledge and consent of the owner.

(17) "Owner." Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof; or shall have charge, care or control of premises, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, receiver, or guardian of the estate, or as a mortgagee in possession either by virtue of a court order or by voluntary surrender by the person holding the legal title. Any person who is a lessee sub-letting or reassigning any part or all of any premises shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

(18) "Plumbing." All of the following supplies, facilities, and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines and water pipes and lines utilized in conjunction with air conditioning equipment.

(19) "Premises." A lot, plot, or parcel of land including the buildings or structures thereon.

(20) "Refuse." (Also see garbage, rubbish) All putrescible and non-putrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(21) "Registered mail." Registered mail or certified mail.

(22) "Room." Space in an enclosed building, or space set apart by a partition or partitions.

(23) "Rubbish." (Also see garbage, refuse) Non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

(24) "Sanitary sewer." Any sanitary sewer owned, operated, and maintained by the City of Athens and available for public use for the disposal of sewage.

(25) "Sewage." Waste from a flush toilet, bathtub, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture or equipment or machine.

(26) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished ceiling level directly above a basement or cellar is more than 6 feet above grade, such basement or cellar shall be considered a story.

(27) "Structure." Combination of any materials, whether fixed or portable, forming a construction, including buildings.

(28) "Washrooms." Enclosed space containing one or more bathtubs, showers, or both, and which shall also include toilets, lavatories, or fixtures serving similar purposes.

(29) "Water closet compartment." Enclosed space containing one or more toilets which may also contain one or more lavatories, urinals, and other plumbing fixtures.

(30) "Weathering." Deterioration, decay, or damage caused by exposure to the elements.

(31) "Meaning of certain words." Whenever any words are used in this code, they shall be construed, unless expressly stated to the contrary, to include the plurals of those words and/or as if they were followed by the words "or any part thereof." The word "shall" shall be applied retroactively as well as prospectively. (1972 Code, § 4-602, modified)

12-603. Applicability. (1) Every commercial, business, or industrial establishment and the premises on which it is situated in the city used or intended to be used for commercial, business, or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered, or repaired before or after the enactment of this code, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises, for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this code. This code establishes minimum standards for the

initial and continued occupancy and use of all such buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building, equipment, or facilities contained therein, except as provided in subsection (2) hereof. Where there is mixed occupancy, any commercial, business, or industrial use therein shall be nevertheless regulated by and subject to the provisions of this code.

(2) Higher standard to prevail in case of conflict with other ordinances or laws. In any case where the provisions of this code impose a higher standard than set forth in any other ordinances of the city or under the laws of the State of Tennessee, then the standard as set forth herein shall prevail, but if the provisions of this code impose a lower standard than any other ordinance of the city or of the laws of the State of Tennessee, then the higher standard contained in any such other ordinance or law shall prevail.

(3) Issuance and renewal of other permits and licenses. After the date of enactment hereof, all licenses and permits shall be issued upon compliance with this code as well as compliance with the ordinance under which such licenses and permits are granted.

(4) Enforcement of and compliance with other ordinances. No license or permit or other certification of compliance with this code shall constitute a defense against any violation of any other ordinance of the city applicable to any structure or premises, nor shall any provision herein relieve any owner or operator from complying with any such other provision or any official of the city from enforcing any such other provision. (1972 Code, § 4-603)

12-604. Duties and responsibilities of owner and operator.

(1) Maintenance of exterior of premises. The exterior of the premises and of all structures thereon shall be kept free of all nuisances and any hazards to the safety of occupants, pedestrians, and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:

(a) Refuse. Brush, weeds, broken glass, stumps, roots, obnoxious growths, and accumulations of filth, garbage, trash, refuse and debris.

(b) Natural growth. Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating condition or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.

(c) Overhangings. Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

(d) Ground surface hazards or unsanitary conditions. Holes, excavations, breaks, projections, obstructions, icy conditions, uncleared

snow, and excretions of pets and other animals on paths, walks, driveways, parking lots, and parking areas, and other parts of the premises which are accessible to and used by persons on the premises. All such holes and excavations shall be filled and repaired, walks and steps replaced, and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery.

(e) Recurring accumulations of storm water. Adequate run-off drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.

(f) Sources of infestation.

(g) Foundation walls. Foundation walls shall be kept structurally sound, free from defects and damage, and capable of bearing imposed loads safely.

(h) Chimneys and all flue and vent attachments thereto. Chimneys and all flue and vent attachments thereto shall be maintained structurally sound, free from defects, and so maintained as to capably perform at all times the functions for which they were designed. Chimneys, flues, gas vents, or other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases.

(i) Exterior porches, landings, balconies, stairs and fire escapes. Exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free from defects.

(2) Appearance of exterior of premises and structures. The exterior of the premises and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the standards of the neighborhood or such higher standards as may be adopted as part of a plan of urban renewal by the City of Athens, and such that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of the neighborhood with the accompanying diminution of property values including the following:

(a) Landscaping. Premises shall be kept landscaped and lawns, hedges, and bushes shall be kept trimmed and from becoming overgrown and unsightly where exposed to public view and where the same constitute a blighting factor depreciating adjoining property.

(b) Signs and billboards. All permanent signs and billboards exposed to public view permitted by reason of other regulations or as a lawful non-conforming use shall be maintained in good repair. Any signs

which have excessively weathered or faded or those upon which the paint has excessively peeled or cracked shall, with their supporting members, be removed forthwith, or put into a good state of repair. All non-operative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.

(c) Windows. All windows exposed to public view shall be kept clean and free of marks or foreign substances except when necessary in the course of changing displays. No storage of materials, stock, or inventory shall be permitted in window display areas or other areas ordinarily exposed to public view unless said areas are first screened from the public view by drapes, venetian blinds, or other permanent rendering of the windows opaque to the public view. All screening of interiors shall be maintained in a clean and attractive manner and in a good state of repair.

(d) Store fronts. All store fronts shall be kept in good repair, painted where required, and shall not constitute a safety hazard or nuisance. In the event repairs to a store front becomes necessary, such repairs shall be made with the same or similar materials used in the construction of the store front in such a manner as to permanently repair the damaged area or areas. Any cornice visible above a store front shall be kept painted, where required, and in good repair.

(e) Signs or advertisements - removal. Except for "For Rent" signs, any temporary sign or other paper advertising material glued or otherwise attached to a window or windows or otherwise exposed to public view shall be removed at the expiration of the event or sale for which it is erected, or within sixty (60) days after erection, whichever shall sooner occur.

Except during the course of repairs or alterations, no more than 33-1/3% of the square footage of any single window or single window display area shall be devoted to signs or other temporary advertising material attached to said window or windows or otherwise exposed to public view.

(f) Awnings and marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk, or any other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event said awnings or marquees are made of cloth, plastic, or of a similar material, said cloth or plastic where exposed to public view shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing or other holes. Nothing herein shall be construed to authorize

any encroachment on streets, sidewalks, or other parts of the public domain.

(3) General maintenance. The exterior of every structure or accessory structure (including fences, signs, and store fronts) shall be maintained in good repair and all surfaces thereof shall be kept painted or white-washed where necessary for purposes of preservation and appearance. All surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other condition reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences.

(a) Reconstruction of walls and sidings. All reconstruction of walls and sidings shall be of standard quality and appearance commensurate with the character of the properties in the same block and on both sides of the street on which the premises front, such that the materials used will not be of a kind that by their appearance under prevailing appraisal practices and standards will depreciate the values of neighboring and adjoining premises as aforesaid.

(b) Floors, interior walls, and ceilings. Floors, interior walls, and ceilings of every structure shall be structurally sound and maintained in a clean and sanitary condition.

(c) Floors generally. Floors shall be considered to be structurally sound when capable of safely bearing imposed loads and shall be maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks, and other hazards.

(d) Washroom and water closet compartment floors. Washroom and water closet compartment floors shall be surfaced with water-resistant material and shall be kept in a dry, clean, and sanitary condition at all times.

(e) Supporting structural members. Supporting structural members are to be kept structurally sound, free of deterioration, and capable of bearing imposed loads safely.

(f) Walls and ceilings generally. Walls and ceilings shall be considered to be in good repair when clean, free from cracks, breaks, loose plaster, and similar conditions. Walls shall be provided with paint, paper sealing material, or other protective covering so that the said walls and ceilings shall be kept clean, free of visible foreign matter, sanitary, and well-maintained at all times.

(g) Lighting of washrooms. Every washroom and water closet compartment shall be provided with permanently installed artificial lighting fixtures with a switch and wall plat so located and maintained that there is no danger of short-circuiting from water from other bathroom facilities or from splashing of water.

(h) Electrical service generally. All premises shall be properly connected to and be provided with electric power through safely insulated conductors conforming to the National Electrical Code and the local requirements of the Athens Utilities Board.

(i) Loose or exposed wiring. Except as hereinafter stated, all wiring or cables shall be properly affixed or attached to the structure. Insulation shall be provided for all wiring and cables and kept in good repair. No loose cords or loose extension lines in excess of 6 feet in length shall be permitted and no ceiling or wall fixture shall be used for supplying power to equipment other than that for which they are designed.

(j) Fuses and protective devices. Maximum fuse sizes consistent with safety shall be posted conspicuously on the inside cover of all fuse boxes and no fuse shall be installed therein in excess of the stated maximum except that owners shall not be responsible for violations in fuse installations without their knowledge where the correct maximum is stated and the fuse box is located within any part of the premises which is in the exclusive possession of occupants other than the owner.

(k) Overloading of circuits. Overloading of circuits is prohibited. Where the code officer finds, after notice and hearing, that by reason of the appliances and fixtures creating a hazard, the owner shall be required to install a line of sufficient capacity to absorb the load to which the line is subjected or otherwise eliminate the conditions causing the overload. For purposes of this section, the code officer may consider the peak seasonal load to which the line is subjected.

(l) Responsibility for removal. The owner or operator shall have the duty and responsibility of removing garbage.

(m) Accumulating refuse and non-fireproof storage prohibited. Storage bins, rooms, and areas shall not be used for accumulated garbage or refuse. Inflammable or combustible liquids or other materials may be stored on the premises unless they are of a type approved for storage by the regulations of the fire department, and then only in such quantities and in such fireproof storage containers as may be prescribed by the regulations.

(4) Vacant buildings to be kept locked. It shall be the duty of the owner of any vacant building within the City of Athens to keep all doors, windows and other openings in such building locked or otherwise secured so as to prevent unauthorized persons from entering such buildings.

(5) Damaged buildings to be secured. It shall be the duty of the owner of any building which has been damaged by fire, wind or any other act of God or man, to fence or close all openings or otherwise secure such building within ten (10) days from the date of damage to said building so as to prevent children or any unauthorized person from entering. (1972 Code, § 4-604)

12-605. Duties and responsibilities of operator. (1) General and specific provisions. Upon discovery by an occupant of any condition on the premises which constitutes a violation hereof, the occupant shall report the same to the code officer responsible for enforcement thereunder.

All parts of the premises under the control of the operator shall be kept in a clean and sanitary condition and the occupant shall refrain from performing any acts which would render other parts of the premises unclean or unsanitary or which would obstruct the owner or operator from performing any duty required hereunder of maintaining the premises in a clean and sanitary condition.

(2) Eliminating infestation. Every operator shall be responsible for the elimination of infestation in and on the premises subject to his control.

(3) Malicious damage. Every operator shall be responsible for willfully or maliciously causing damage to any part of the premises.

(4) Maintenance of plumbing. Every operator shall maintain all plumbing fixtures used by him in a clean and sanitary condition and he shall not deposit any material in any fixture or sewer system which would result in stoppage of or damage to the fixture or sewer system.

(5) Providing notice of defect to owner. Where the owner would not otherwise know of a defect of any facility, utility, or equipment required to be furnished hereunder and the same is defective or inoperable, each operator affected thereby shall, upon learning of said defect, provide notice to the owner or person in charge of the premises. Nothing herein shall be construed to provide a defense for any owner violating this code. (1972 Code, § 4-605)

12-606. Administrative provisions. (1) Supervision vested in the code officer. Responsibility for enforcement of this code is vested in the code officer and all inspections, regulations, enforcement, and hearings on violations of the provisions of this code, unless expressly stated to the contrary, shall be under his direction and supervision. He may appoint or designate such other public officials or employees of the city to perform duties as may be necessary to the enforcement of this code, including the making of inspections and the holding of hearings.

(2) When inspections are to be made. All buildings and premises subject to this code are subject to inspections from time to time by the enforcing officer. At the time of such inspections, all rooms and parts of the premises must be available and accessible for such inspections, and the owner and operator are required to provide the necessary arrangements to facilitate such inspections. Such inspections shall be made during regular open hours of the business occupying the said premises unless there is reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection or abatement without delay.

(3) Where entry by inspectors is refused. Where the code officer or his agent is refused entry or access or is otherwise impeded or prevented by the

owner or operator from conducting an inspection of the premises, such person shall be in violation of this code and subject to the penalties hereunder.

In addition, the code officer may, upon affidavit, apply to the city judge of the City of Athens for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this code exists on the premises, and if the judge is satisfied as to the matter set forth in the said affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation exists.

(4) Procedure where violation discovered. Where a violation of this code or the regulation hereunder is found to exist, a written notice from the code officer shall be served on the person or persons responsible for the correction thereof. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time not to exceed 30 days to correct or abate the violation, the right of the person served to request a hearing, and that the notice shall become an order of the code officer in ten (10) days after service unless a hearing is requested.

(5) Service of notice. Notice may be served personally or by prepaid telegram or by mail with postage prepaid, addressed to the last known address of the person to be served. If the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the building.

(6) Notice to become an order unless hearing is requested. Within ten (10) days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon and serves a written request within the ten-day period in person or by mail to the code officer. Such request for a hearing shall set forth briefly the grounds or reasons on which the request for a hearing is based and the factual matters contained in the notice of violation which are to be disputed at the hearing. The code officer, upon receipt of the request, shall within thirty (30) days therefrom and upon five (5) days notice to the party aggrieved set the matter down for hearing.

(7) Determination at hearing. At any hearing provided hereunder the code officer shall be vested with all powers provided by law to compel the attendance of witnesses and parties in interest by service of subpoena, to require by subpoena the production of books, records, or other documents at any such hearing which may be pertinent to matters to be determined by him and to enforce any such subpoena or secure any order for the enforcement of such subpoena as provided by law. A determination shall be made within 10 days from the completion of the hearing. The code officer shall issue an order either incorporating the determinations and directions contained in the notice, modifying the same, or withdrawing the notice.

(8) Extension of time. The code officer may extend the time for correction or abatement of the violations for an additional period of time not to exceed thirty (30) days, except where major capital improvements or renovations

are involved, in which instance the time for completion may be extended for a period not to exceed ninety (90) days beyond the expiration date of the original notice.

(9) Summary abatement in emergency - notice and hearing not required. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the code officer may either abate the violation or condition immediately or order the owner, operator, or occupant to correct the violation within a period or time not to exceed three (3) days, and upon failure to do so, the code officer shall abate the condition immediately thereafter.

(10) Cost of abatement to be a lien against premises. Where abatement of a violation or condition is required hereunder, the code officer shall cause to be certified to the owner of the premises the cost thereof, and the owner may request a hearing on the reasonableness of the cost as provided in (6) above. After such hearing, a final determination shall be made as to the reasonable cost of abatement, which determination shall be certified to the tax collector and shall become a lien on the property and be collected by the same procedure as real property taxes. (1972 Code, § 4-606)

CHAPTER 7

MECHANICAL CODE

SECTION

12-701. Mechanical code adopted.

12-702. Modifications.

12-703. Available in city manager's office.

12-704. Violations.

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 providing minimum requirements for safe mechanical installation, alterations or repairs to new equipment, replacement of equipment, appliances, fixtures, fittings, and the appurtenances thereto, so as to safeguard life, health, and public welfare and the protection of property, the International Mechanical Code, 2009 edition¹, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as part of this code, and is hereinafter referred to as the mechanical code. (1972 Code, § 4-901, modified, as amended by Ord. #836, § 3, Oct. 1997, replaced by Ord. #960, July 2007, and amended by Ord. #1008, Aug. 2012)

12-702. Modifications. Wherever the mechanical code refers to the "Chief Appointing Authority" or the "Administrative Authority," it shall be deemed to be a reference to the "city manager."

Wherever "Mechanical Official" is named or referred to, it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the mechanical code. (1972 Code, § 4-902)

12-703. Available in city manager'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 manager's office and shall be kept there for the use and inspection of the public. (1972 Code, § 4-903)

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. Furthermore, the mechanical official may discontinue or refuse electrical service to any premises where the mechanical installation does not comply with this chapter and/or the mechanical code. (1972 Code, § 4-904)

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

CHAPTER 8

ENERGY CONSERVATION CODE¹

SECTION

- 12-801. Energy conservation code adopted.
 12-802. Modifications.
 12-803. Available in city manager's office.
 12-804. Violations and penalty.

12-801. Energy conservation 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, 2006 edition², as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as part of this Code, and is hereinafter referred to as the Energy Code. (as replaced by Ord. #960, July 2007)

12-802. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Athens. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the energy code.

12-803. Available in city manager's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

¹State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

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.

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

been placed on file in the city manager's office and shall be kept there for the use and inspection of the public.

12-804. Violations and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 9

ACCESSIBILITY CODE

SECTION

- 12-901. Accessibility code adopted.
- 12-902. Available in recorder's office.
- 12-903. Violations and penalty.

12-901. Accessibility code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of making all public buildings accessible to and functional for persons who are physically handicapped the 1999 Accessibility Code, North Carolina edition Volume 1-C with the 2002 and the 2004 revisions¹, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the accessibility code. (as amended by Ord. #836, § 4, Oct. 1997, as replaced by Ord. #960, July 2007)

12-902. Available in city manager's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502 one (1) copy of the accessibility code has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public.

12-903. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the accessibility code as herein adopted by reference. Each day a violation is allowed to continue shall constitute a separate offense.

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

CHAPTER 10

RESIDENTIAL CODE

SECTION

- 12-1001. Residential code adopted.
- 12-1002. Modifications.
- 12-1003. Amendments.
- 12-1004. Available in city manager's office.
- 12-1005. Violations.

12-1001. 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, electrical, and mechanical provisions, the International Residential Code,¹ 2009 edition and all reference standards and Appendix F, J, M and O, except section R 312.2 One and Two Family Dwellings Automatic Sprinkler Systems and chapters 34-43 relating to electrical, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as part of this code, and is hereinafter referred to as the residential code. (as added by Ord. #960, July 2007, and amended by Ord. #1008, Aug. 2012)

12-1002. Modifications. Whenever the residential code refers to the "Chief Appointed Authority" or the "Chief Administrator" it shall be deemed to be a reference to the "City Manager." (as added by Ord. #960, July 2007)

12-1003. Amendments. Section 313.1, Townhouse automatic sprinkler system is amended by adding, "However, an automatic sprinkler system shall not be required in a three (3) unit townhouse with less than five thousand (5,000) gross square feet and three (3) or fewer stories if each unit is separated by a two (2) hour fire wall." (as added by Ord. #1008, Aug. 2012)

12-1004. Available in city manager's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public. (as added by Ord. #960, July 2007, and renumbered by Ord. #1008, Aug. 2012)

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

12-1005. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of this chapter or the residential code as herein adopted by reference and modified. (as added by Ord. #960, July 2007, and renumbered by Ord. #1008, Aug. 2012)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS.
3. SLUM CLEARANCE.
4. JUNKYARDS.
5. ABANDONED MOTOR VEHICLES ON PRIVATE PROPERTY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Water pollution.
- 13-104. Slaughter houses.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Assessments for making private property safe and/or sanitary.
- 13-108. Air pollution control regulations.

13-101. 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 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. (1972 Code, § 8-1206, as renumbered by Ord #917, April 2004)

13-102. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property. (1972 Code, § 8-1207, as renumbered by Ord #917, April 2004)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-213(11).

Wastewater treatment: title 18, chapter 1.

13-103. Water pollution. It shall be unlawful to pollute the water of any stream within the city or its police jurisdiction. (1972 Code, § 8-1208, as renumbered by Ord #917, April 2004)

13-104. Slaughter houses. It shall be unlawful to erect, maintain or operate any slaughter house within the corporate limits. (1972 Code, § 8-1209, as renumbered by Ord #917, April 2004)

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. (1972 Code, § 8-1210, as renumbered by Ord #917, April 2004)

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. (1972 Code, § 8-1211, as renumbered by Ord #917, April 2004)

13-107. Assessments for making private property safe and/or sanitary. When property owners or occupants, after reasonable notice from the city manager, refuse or fail to remove from sidewalks all accumulations of snow, ice, and earth or other nuisances or hazards to the public health and welfare; or fail to cut and remove obnoxious weeds; or fail to remove rubbish; or fail to clean and render sanitary or remove or abolish any closet or privy, the city manager may have such work performed and may thereupon assess the reasonable costs thereof against the abutting property. (1972 Code, § 8-1212, as renumbered by Ord #917, April 2004)

13-108. Air pollution control regulations. It shall be unlawful and a violation of this section for any person to violate within the corporate limits any provision of the Tennessee Air Pollution Control Regulations as adopted by the Tennessee Air Pollution Control Board. Three (3) copies of these regulations are on file in the office of the city manager and are available for the use and inspection of the public. (1972 Code, § 8-1214, as renumbered by Ord #917, April 2004)

CHAPTER 2

REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS

SECTION

13-201. Overgrown and dirty lots.

13-202--13-205. [Deleted.]

13-201. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-201 of the City of Athens Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the

transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in county, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (4) above may seek judicial review of

the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1972 Code, § 8-601, as replaced by Ord. #984, March 2010)

13-202. [Deleted.] (1972 Code, § 8-602, as deleted by Ord. #984, March 2010)

13-203. [Deleted.] (1972 Code, § 8-603, as deleted by Ord. #984, March 2010)

13-204. [Deleted.] (1972 Code, § 8-604, as deleted by Ord. #984, March 2010)

13-205. [Deleted.] (1972 Code, § 8-605, as deleted by Ord. #984, March 2010)

CHAPTER 3

SLUM CLEARANCE

SECTION

- 13-301. Title.
- 13-302. Definitions.
- 13-303. Existence of structures unfit for human habitation.
- 13-304. City manager designated to act.
- 13-305. Institution of action and notification by city manager.
- 13-306. Determination of and further notice by city manager.
- 13-307. Failure of owner to comply to vacate and repair.
- 13-308. Failure of owner to remove or demolish.
- 13-309. Creation of lien and payment into court.
- 13-310. Conditions rendering structure unfit for human habitation.
- 13-311. Service of complaints or orders.
- 13-312. Enjoining enforcement of order.
- 13-313. Powers given the city manager.

13-301. Title. This chapter shall be known and may be cited as the City of Athens "Slum Clearance Ordinance." (1972 Code, § 4-801)

13-302. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

- (1) "Municipality" shall mean the City of Athens, Tennessee.
- (2) "Governing body" shall mean the Athens City Council.
- (3) "Public officer" shall mean the city manager or his designated agent who is authorized by this chapter to exercise the powers prescribed by this chapter.
- (4) "Public authority" shall mean any officer who is in charge of any department or branch of government of the municipality or state relating to health, fire, building regulations, or other activities concerning structures in the municipality.
- (5) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.
- (6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof.
- (7) "Structure" shall mean any building or structure or part thereof, used and occupied for human habitation or by the public in general or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1972 Code, § 4-802)

13-303. Existence of structures unfit for human habitation. There exists in the City of Athens structures which are unfit for human habitation, due to dilapidation, defects increasing the hazards of fire, accident or other calamities; lack of ventilation, light or sanitary facilities or due to other conditions rendering such structures unsafe or unsanitary or dangerous or detrimental to the welfare of the residents of the City of Athens. (1972 Code, § 4-803)

13-304. City manager designated to act. The city manager is designated as the public officer of the City of Athens who is to exercise the powers herein prescribed. (1972 Code, § 4-804)

13-305. Institution of action and notification by city manager. Whenever a petition is tiled with the city manager by a public authority or by at least five (5) residents of the City of Athens charging that any structure is unfit for human habitation, or use in general, or whenever it appears to the city manager (on his own motion) that any structure is unfit for human habitation or use, the city manager shall, if after making a preliminary investigation, such investigation discloses a basis for such charges, issue and cause to be served upon the owner of the parties in interest of such structure, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the city manager (or his designated agent) at a time and place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city manager or his designated agent. As contained herein, "public authority" shall mean any officer who is in charge of any department or branch of the government of the City of Athens or the State of Tennessee relating to health, fire, building regulations, or other activities concerning structures in the City of Athens. (1972 Code, § 4-805)

13-306. Determination of and further notice by city manager. If, after such notice and hearing as above prescribed, the city manager determines that the structure under consideration is unfit for human habitation, or public use, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration, or improvement of the said structure can be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to repair, alter, or improve such structure to render it fit for human habitation or public use or if not adequately repaired, altered or improved within the time specified in the order to vacate and close the structure as a human habitation; or

(2) If the repair, alteration or improvement of the said structure cannot be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to remove or demolish such structure. Rebuilding in violation of existing zoning ordinances will not be permitted.

The city manager shall determine the value of the structure in question existing on the land and the value of the land, it self, not to be considered, and if the structure can be made to conform to such standards as will make it properly habitable by an expenditure of not more than fifty percent (50%) of said value, the order referred to in the preceding paragraph shall contain the first alternative. If an expenditure of more than fifty percent (50%) of the value just referred to would be necessary to make the structure properly habitable, the order in the preceding paragraph shall contain the second alternative. (1972 Code, § 4-806)

13-307. Failure of owner to comply to vacate and repair. If the owner fails to comply with the order under part (1) of § 13-306, the city manager may cause such structure to be repaired, altered or improved or be vacated and closed; and in such event the city manager may cause to be posted on the main entrance of any structure so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." (1972 Code, § 4-807)

13-308. Failure of owner to remove or demolish. If the owner fails to comply with an order as set forth in part (2) of § 13-306, the city manager may cause such structure to be removed or demolished. (1972 Code, § 4-808)

13-309. Creation of lien and payment into court. The amount of the cost of such repairs, alterations or improvements or vacating and closing or removal or demolition by the city manager shall be a lien against the real property on which such cost was incurred. If the structure is removed or demolished by the city manager, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the chancery court by the city manager, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court, provided however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Athens to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (1972 Code, § 4-809)

13-310. Conditions rendering structure unfit for human habitation. In addition to the other standards set forth in this chapter, the city manager or his authorized agent may determine that a structure is unfit for human habitation

or public use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structures, the occupants of neighboring dwellings or other residents of the city; such conditions may include the following (but without limiting the generality of the foregoing): Defects in increasing the hazards of fire, accident or other calamities, lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (1972 Code, § 4-810)

13-311. Service of complaints or orders. Complaints or orders issued by the city manager pursuant to the requirements of this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the city manager in the exercise of reasonable diligence and the said city manager or his authorized agent shall make affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (1972 Code, § 4-811)

13-312. Enjoining enforcement of order. Any person affected by an order issued by the city manager or his authorized agent may file a bill in the chancery court for an injunction restraining the said manager from carrying out the provisions of the order and the court may, upon the filing of such bill, issue a temporary injunction restraining the said manager pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting, and service of the order of the city manager, such persons shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

The court shall hear and determine the issue raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the finding of the city manager as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the city manager shall be entitled to recover any damages for action taken pursuant to any order of the city manager, or because of non-compliance by such person with any order of the city manager. (1972 Code, § 4-812)

13-313. Powers given the city manager. The city manager is authorized to exercise such powers as may be necessary or convenient to carry out and

effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(1) To investigate or have investigated the structure conditions in the city in order to determine which structures therein are unfit for human habitation.

(2) To administer oaths, affirmations, examine witnesses and receive evidence.

(3) To enter upon premises for the purposes of making examinations provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1972 Code, § 4-813)

CHAPTER 4

JUNKYARDS

SECTION

13-401. Junkyards.

13-401. Junkyards.¹ All junkyards within the City of Athens, Tennessee, shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1972 Code, § 8-1213)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 5

ABANDONED MOTOR VEHICLES ON PRIVATE PROPERTY

SECTION

- 13-501. Declaration of purpose of chapter.
- 13-502. Storage on private property restricted.
- 13-503. Removal required.
- 13-504. Notice to remove.
- 13-505. Refusal to remove.
- 13-506. Removal by city.
- 13-507. Entry to remove; removal by owner.

13-501. Declaration of purpose of chapter. In enacting this chapter, the council finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicles, on private property, which motor vehicles are in the nature of rubbish and unsightly debris, violates, in many instances, the zoning regulations of the city and constitutes a nuisance detrimental to the health, safety, and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property; invite plundering, create fire hazards and other safety and health hazards to minors as well as adults, interfere with the comfort and well being of the public and create, extend, and aggravate urban blight, and that the public health, safety, and general welfare require that such conditions be regulated, abated, and prohibited. (1972 Code, § 8-701)

13-502. Storage on private property restricted. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind, for a period in excess of 72 hours, when such vehicle is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the city unless the same is completely enclosed within a building or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise. (1972 Code, § 8-702)

13-503. Removal required. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this chapter shall constitute rubbish and debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the city. It shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the private property upon which such motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to

a place of lawful storage, or to have the motor vehicle housed within a building where it will not be visible from the street. (1972 Code, § 8-703)

13-504. Notice to remove. Whenever there is reasonable grounds to believe that a violation of the provisions of this chapter exists, the chief of police shall give, or cause to be given, written notice to the registered owner of any motor vehicle which is in violation of this chapter, or shall give such notice to the owner or person in lawful possession or control of the private property upon which such motor vehicle is located, or shall give such notice to both the registered owner and to the owner or person in lawful possession or control of such private property that said motor vehicle violates the provisions of this chapter, and demand that said motor vehicle be removed to a place of lawful storage within 72 hours, or that within 72 hours, the same be housed in a building where it will not be visible from the street. Service of such notice shall be by mail duly posted. (1972 Code, § 8-704)

13-505. Refusal to remove. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle or house the same and abate said nuisance in accordance with the notice as provided herein, shall be in violation of the provisions of this chapter and shall be guilty of a misdemeanor. (1972 Code, § 8-705)

13-506. Removal by city. In addition to and not in lieu of any other procedure prescribed in this chapter or in this code for removal of abandoned motor vehicles from private property, if the registered owner of any motor vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of this chapter, the chief of police may remove and dispose of such motor vehicle in the manner provided for by Tennessee Code Annotated, title 55, chapter 16, particularly §§ 55-16-104, 55-16-105, and 55-16-106. He may thereafter maintain an action in the name of the city, in the appropriate court, against any person or persons upon whom notice was served as required by this chapter to recover the costs of removing and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such costs. (1972 Code, § 8-706)

13-507. Entry to remove; removal by owner. The chief of police, any regularly employed and salaried officer of the police department of the city, contracting agents of the "City of Athens, and employees of such contracting agents, and authorized officers, employees, and agents of the City of Athens, and each of them, are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for

any person to interfere with, hinder, or refuse to allow them to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provisions of this chapter. Any person to whom notice was given pursuant to this chapter shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the chief of police or his authorized representatives for the purpose of removal. (1972 Code, § 8-707)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. GRADING PERMIT POLICY.
4. SITE PLANS AND LAND DEVELOPMENT.
5. STORMWATER MANAGEMENT POLICY.
6. LANDSCAPE ORDINANCE.
7. MOBILE HOMES.

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 seven (7) members: two (2) of these shall be the mayor or a person designated by the mayor and a council member selected by the city council; one (1) member shall be the general manager of the Athens Utilities Board; the other four (4) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. The terms of the four (4) members appointed by the mayor shall be for three (3) years each. The term of the mayor and his designee and the council member selected by the governing body shall be for two (2) years each and shall coincide with the biennial election of the office of mayor. The utilities board general manager shall serve an indefinite term. Any vacancy resulting in an unexpired term in an appointive membership shall be filled by the mayor. (as replaced by Ord. #927, Jan. 2005)

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. (1972 Code, § 11-102)

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. (1972 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Athens shall be governed by Ordinance Number 914, July 15, 2003, referred to as "the Athens Municipal Zoning Ordinance and Map," and any amendments thereto.¹

¹Ordinance No. 914, and any amendments thereto, are published as separate documents and are of record in the office of the city manager.

CHAPTER 3

GRADING PERMIT POLICY

SECTION

- 14-301. Purpose/scope, and authority.
- 14-302. Definitions.
- 14-303. Permitting procedures.
- 14-304. Exceptions for grading permits.
- 14-305. Responsibility not waived.
- 14-306. Site plan and/or conceptual grading plan requirements.
- 14-307. Plan submittal, review, and approval process for grading permits.
- 14-308. Grading permit fees.
- 14-309. Erosion and sedimentation control.
- 14-310. Control measures.
- 14-311. Responsibility and enforcement of policy.

14-301. Purpose/scope, and authority. The purpose/scope and authority is:

(1) The intended purpose of this policy is to safeguard life, limb, property, and public welfare by regulating clearing, earthwork, excavation, and other land disturbing activity and by requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of grading and earthwork.

(2) This policy sets forth standards and rules for grading and earthwork and establishes the requirement of a formal permitting procedure. This policy applies to all areas within the city limits and establishes administrative procedures for the issuance of permits and the enforcement thereof, requires the submission of necessary plans (site or conceptual plans) for such work, and the observation and inspection of grading and/or earthwork operations.

(3) This policy is developed, implemented, and recognized as a standard practice for the City of Athens, Tennessee. The city council has approved this document for the management of grading and earthwork activities within the Athens City Limits. It will be utilized in conjunction with the existing site plan ordinance, subdivision regulations, zoning ordinance, stormwater management policy, landscape ordinance, and other such municipal codes and texts. The Community Development and Public Works Departments of the City of Athens shall administer and enforce the provisions of this policy in regard to the review and approval of grading, excavation, earthwork, and related activities and such management practices as described herein. (as added by Ord. #894, April 2002)

14-302. Definitions. For the purposes of this chapter the following terms, phrases, and words shall have the meaning given herein:

- (1) "Bedrock." In-place, solid, and undisturbed rock.
- (2) "Clearing." The removal from land of trees, shrubs, grass, and/or other varied ground cover and vegetation useful for windbreaks, water retention, and the maintenance of topsoil.
- (3) "Compaction." The densification of materials by mechanical means.
- (4) "Cut." See excavation.
- (5) "Earth material." Any rock and/or natural soil exclusive of any decomposable matter.
- (6) "Earthwork." Excavation, fill and back fill, compaction, and grading.
- (7) "Erosion." The wearing away of the ground surface as a result of movement of wind, water, and/or ice.
- (8) "Excavation." The mechanical removal of earth material.
- (9) "Fill or backfill." A deposit of earth by artificial means.
- (10) "Finish or final grade." The grade of the subject site, which conforms to the permitted plan.
- (11) "Grade." The vertical location of the ground surface to a predetermined elevation datum.
- (12) "Grading." The operation of raising or lowering the ground surface to a predetermined grade.
- (13) "Grading permit." A document allowing or authorizing the initiation of grading, excavation, or related earthwork according to city policies, procedures, and ordinances in conformity to the approved plan(s).
- (14) "Rough grade." The stage of construction at which the grade approximately conforms to the permitted plan.
- (15) "Sediment." Solid material, both material and organic, that is in suspension, is being transported, or has been moved from its origin by air, water, gravity, or ice as a product of erosion.
- (16) "Site." For purposes of this policy, a specific location on which any of the following activities are underway: excavation, cutting, or filling of earth or related earthwork.
- (17) "Soil." Naturally occurring surface deposits overlying bedrock.
- (18) "Site plan." The graphical plan, usually in map form, prepared pursuant to title 14, Zoning and Land Use Control, and chapter 4, Site Plans and Land Development, of the Athens Municipal Code; and the Subdivision Regulations of the City of Athens.
- (19) "Stormwater." The waters derived from rain falling or snow melting within a tributary drainage basin, flowing over the surface of the ground or collected in a stormwater drainage system. (as added by Ord. #894, April 2002)

14-303. Permitting procedures. Unless otherwise stated, no person(s) shall perform any clearing, excavation, or earthwork within the City of Athens without first having obtained a grading permit from the public works department. A separate permit will be required for each and every individual site.

This section explains the procedure for applying for grading permits and the process by which the public works department reviews and approves permits.

This policy is applicable but is not limited to the following activities:

- (1) Excavating, cutting, filling, grading, draining, or paving of lots, parcels, or other areas.
- (2) Altering, rerouting, deepening, widening, obstructing, or changing in any way an existing drainage system or feature.
- (3) Development for: residential (greater than one (1) lot or other subdivisions), commercial, institutional, industrial, utility or other activities.
- (4) Commencing any other development or excavation which may: significantly increase or decrease the rate and/or quantity of surface water runoff; degrade the quality of water; adversely affect any sinkhole, water course, or water body. (as added by Ord. #894, April, 2002)

14-304. Exceptions for grading permits. The following described activities shall not require a grading permit in order to perform clearing, excavation, or related earth work:

- (1) Basement or footer excavations for single or two family (duplex) residential dwellings.
- (2) Cemetery graves.
- (3) Sanitary landfill or refuse disposal sites controlled by other regulations.
- (4) Excavations for wells or tunnels (unless performed on the public right-of-way).
- (5) Mining operations controlled by other regulations.
- (6) Temporary stockpiling or storing of materials provided that such operations do not affect adjacent properties and all drainage and erosion control requirements. Temporary stockpiling/storage shall be defined as ninety (90) days or less.
- (7) Exploratory excavations/drilling under the direction and/or supervision of a licensed soils engineer or geologist.
- (8) Excavation for any structure(s) located within an approved subdivision for which there exists an approved, current, grading or site plan with which the developer/owner/builder intends to comply.
- (9) Accepted agricultural practices such as plowing, cultivation, construction of agricultural structures, nursery operations, tree cutting, logging operations leaving the stump and root mat intact, and cultivated sod operations.

(10) Construction, repair, or rebuilding of rail tracks or related facilities belonging to and located on railroad property.

(11) Installation, repairs, and maintenance of utilities by the utility owner/operator or their contractor or representative.

(12) Grading associated with general maintenance, landscaping, excavation, or placement of fill so long as 50 cubic yards or less of soil is disturbed on one (1) lot AND the existing contours are not altered in excess of two (2) feet AND all work is in compliance of all requirements for erosion and sedimentation control AND the proposed work does not impact or obstruct a natural drainage source. (as added by Ord. #984, April 2002)

14-305. Responsibility not waived. The grading permit exceptions listed in § 14-304 do not relieve the owner, developer, contractor, or other legal representative of the responsibility of installing and properly maintaining the proper erosion/sedimentation control measures or other liability resulting from such activities. (as added by Ord. #984, April 2002)

14-306. Site plan and/or conceptual grading plan requirements. Title 14, Zoning and Land Use Control, Chapter 4, Site Plans and Land Development, of the Athens Municipal Code requires an approved site plan for the activities listed below unless excepted as described in § 14-402. Exceptions:

- (1) Erecting any building or structure.
- (2) Enlarging or altering any building or structure.
- (3) Disturbing land (Alter the grade of any land so as to change the contours in excess of two feet).
- (4) Construction of any streets, alleys, sidewalks, curbs, gutters, retaining walls, drain or sewer, or off street parking lots.
- (5) Changing or diverting the flow of stormwater or natural watercourses.

If the site plan is inadequate in detail for stormwater management, a separate drainage plan will be required. A licensed civil engineer may be required to design stormwater systems and plans. These plans shall contain, as a minimum, the following items or information. (In addition to basic information such as owner name and address, date, scale, north indication, and etc., other information is required aside from drainage requirements. These requirements are listed in § 14-409 of the chapter.)

- (1) Total land area.
- (2) Existing and proposed topography of existing land and impervious land and impervious areas shown in five-foot intervals (two-foot intervals may be required).
- (3) Elevations of all existing and proposed streets, alleys, utilities, sanitary and stormwater sewers, and existing buildings and structures.
- (4) All existing and proposed impervious areas.
- (5) Natural or artificial watercourses.

- (6) Limits of flood plains (if applicable).
- (7) Existing and proposed slopes, terraces, or retaining walls.
- (8) All existing and proposed stormwater drainage structures or features.
- (9) All stormwater structures/features immediately upstream and downstream of the site.
- (10) Erosion and siltation control plans.
- (11) Drainage calculations when required.
- (12) Drainage easements when required.

If the proposed grading is for purposes of other than actual building construction, a conceptual grading plan may be submitted. This plan will contain all of the above requirements with the exception of any buildings or paving details.

If the proposed work is for grading only, this should be indicated on the conceptual plan. A permit will be issued for "grading only." Any future or additional work to include building construction, paving, etc. will require that a site plan be submitted and approved and the necessary permits obtained. (as added by Ord. #984, April 2002)

14-307. Plan submittal, review, and approval process for grading permits. Site, drainage, conceptual grading, and erosion control plans for the purpose of obtaining a grading permit shall be submitted to the public works department. They are to be submitted in such time that the public works director is to receive the submitted plans no less than five (5) working days prior to the intended date to begin site alterations. These plans can be submitted to the public works director at the public works service center located at 219 Alford Street.

An application for a grading permit shall be submitted along with the necessary plans.

For all other purposes, the community development department is the central point for receiving preliminary, revised, and final submittals. The issuance of all other permits is based upon approvals of submitted plans.

All site, drainage, conceptual grading, and erosion control plans and specifications are to be approved by the public works director, the city engineer, or the city manager's designee.

A licensed civil engineer may be required to design site, drainage, conceptual grading, and erosion control plans when required by the public works director, the city engineer, or the city manager's designee. Such requirements will be based upon the complexity of the conditions, the adjacent properties, and the site itself.

If an applicant determines that his/her plan has been unjustly disapproved or that the public works director or city staff has made requests that are considered above and beyond this policy, he/she may appeal the decision to the city manager.

(1) Once the necessary plans and application have been submitted and approved and the necessary fees have been received, a grading permit will be issued.

(2) The necessary fees can be paid and the permit issued at the public works service center located at 219 Alford Street.

(3) The permit is valid for a period of six (6) months from the date of issue. Extensions will be considered based on the circumstances.

(4) The permit and copies of the approved drawings are to be present on site at all times when work is underway. The city's representative may ask to see these at any time.

(5) A grading permit can be suspended or revoked for violation of this or other related policies, procedure, or city ordinances. A stop work order may be issued if work continues after the grading permit has been revoked. Further action can and will be taken if necessary to insure compliance with this policy. (as added by Ord. #984, April 2002)

14-308. Grading permit fees. The fee for the grading permit is intended to assist the City of Athens in recovering some of the expenses associated with the permit process. These costs consist primarily of administration, inspection, and enforcement activities and shall be approved and set by the Athens City Council. Fees are due upon submission of the permit application. (as added by Ord. #984, April 2002)

14-309. Erosion and sedimentation control. Developers and/or property owners shall use appropriate erosion and sedimentation control measures to ensure that erosion, or adverse conditions caused by erosion or sedimentation, is eliminated or held to an acceptable minimum and does not cross to an adjoining property, R.O.W., street, or stream.

When deemed necessary, the public works director, community development director, city manager, and/or the planning commission may require that a separate, detailed erosion and sedimentation control plan be submitted along with the site plan. Otherwise, control measures should be indicated on the site plan.

All control measures will be approved in the field by the appropriate city staff, typically the public works director or his designee, and maintained by the developer. (as added by Ord. #984, April 2002)

14-310. Control measures. The following control measures should be used as a minimum for erosion control:

(1) The smallest practical area of land should be exposed at any one time during development. Mulching or other protective measures should be used to protect exposed areas.

(2) Areas that will be exposed for more than three (3) months shall be seeded and mulched or landscaped.

(3) Temporary furrows, terraces, sediment or debris basins should be installed to prevent washing and erosion during construction.

(4) In areas where soil may wash onto the roadway or into a drainage basin, the developer will be required to install and maintain a silt fence, hay bales, or both.

(5) Final vegetation should be installed as soon as practical in the development after the land is exposed.

(6) A gravel construction entrance shall be constructed prior to any site work. The owner or his/her contractor throughout the construction process will maintain this construction entrance.

(7) Sediment washed onto roadways or into drainage ditches or basins, and soil tracked onto roadways by construction equipment/vehicles or daily ingress and egress onto the site shall be removed at the end of each working day by the contractor, developer, or property owner. (as added by Ord. #984, April 2002)

14-311. Responsibility and enforcement of policy This policy is adopted by the City Council of the City of Athens and by the Athens Municipal Regional Planning Commission.

Inspection and enforcement of the conditions described in this policy are the responsibility of, but not limited to, the public works director, or his designee, or the city building inspector, or other person(s) as designated by the city manager.

Any clearing, earthwork, excavation, and other land disturbing activity not meeting the requirements of this policy will be stopped at the direction of the public works director, his designee, the city building inspector, his designee, or the city manager, or his designee. Such work may not resume until such time that all provisions are adequately met.

Intentional or continued violation of this policy is considered a civil offense, and each separate violation shall be deemed punishable by a civil penalty in accordance with City of Athens Ord. #802, § 5 entitled "Penalty Clause," of the Athens Municipal Code. (as added by Ord. #984, April 2002)

CHAPTER 4

SITE PLANS AND LAND DEVELOPMENT

SECTION

- 14-401. Definitions.
- 14-402. Exceptions.
- 14-403. Approved site plan required to erect buildings.
- 14-404. Approved site plan required to enlarge buildings.
- 14-405. Approved site plan required to disturb land.
- 14-406. Development according to site plan.
- 14-407. Permits not to be issued without approved site plans.
- 14-408. Site plan submission.
- 14-409. Site plan.
- 14-410. Requirements, regulations, and restrictions.
- 14-411. Appeals.

14-401. Definitions. For the purposes of this chapter the following words and phrases shall have the meanings assigned below, except in those instances where the context clearly indicates a different meaning.

(1) "Building." Any structure built for the support, shelter, housing, or enclosure of persons, animals, or property of any kind.

(2) "Commission." The planning commission of the City of Athens, Tennessee.

(3) "City." The City of Athens, Tennessee.

(4) "Dwelling." A building or portion thereof which is designed or used exclusively for residential purposes.

(5) "Dwelling unit." A group of one or more rooms designed for or intended for occupancy by a single family.

(6) "Flood plain." That area of a stream bed or its adjoining land subject to recurrent overflow or inundation in time of flood.

(7) "Row dwelling." One of a series of three or more attached dwelling units under a common roof with a common exterior wall and separated from one another by continuous vertical party walls without openings from basement to roof.

(8) "Single family dwelling." A detached building designed for or intended to be occupied by one family.

(9) "Site plan." A plan delineating the overall scheme of development of a tract of land, including but not limited to grading, engineering design, construction details, and survey data for existing and proposed improvements; size, height, shape and location of buildings; location and design of parking areas, pedestrian and vehicular circulation on site, and circulation for emergency apparatus.

(10) "Structure." Anything which is built or constructed. An assembly of materials or any piece of work artificially built up or composed of parts joined together in some definite manner.

(11) "Two family dwelling." A building designed for, or intended to be occupied by not over two families living independently of each other. This shall include both duplex (one dwelling unit above another) and semi-detached (two dwelling units having a common vertical party wall). (1972 Code, § 11-201, as renumbered by Ord. #894, April 2002)

14-402. Exceptions. The provisions of this chapter shall not apply to:

(1) Single family dwellings, two family dwellings, accessory buildings thereto, or to the land on which they are situated or proposed.

(2) Additions to buildings where the total gross floor area of the proposed addition does not exceed one third of the total gross floor area of the existing building or 1,000 square feet, whichever is smaller.

(3) New buildings where the total gross floor area does not exceed 1,000 square feet; provided there is no alteration of the drainage flow of the land or grading exceeding a cut or fill of one foot, the site is not in the flood plain, and the site is not in excess of 10,000 square feet.

(4) Improvements for off-street parking purposes when appurtenant only to existing buildings and where access will be provided by existing driveways, provided such improvement does not provide more than five additional parking spaces.

(5) Grading of open areas, either by excavation or fill, for the sole purpose of bringing the land to a grade compatible with the surrounding area, provided the city engineer finds on an inspection of the site that such grading will have no adverse effect on the land of surrounding property owners, will not encroach on or impair existing drainage channels or flood plains, and will not cause problems of erosion, ponding, and/or silting on adjoining properties. (1972 Code, § 11-202, as renumbered by Ord. #894, April 2002)

14-403. Approved site plan required to erect buildings. Except as hereinbefore provided in § 14-402, it shall be unlawful for any person to construct or erect any building or structure on any land within the city until a site plan has been submitted and approved in accordance with the provisions of this chapter. (1972 Code, § 11-203, as renumbered by Ord. #894, April 2002)

14-404. Approved site plan required to enlarge buildings. Except as hereinabove provided in § 14-402, it shall be unlawful for any person to alter any building or structure on any land within the City of Athens, Tennessee, in such a manner as to increase the floor area or change the land area covered by the building or structure until a site plan has been submitted and approved in accordance with the provisions of this chapter. (1972 Code, § 11-204, as renumbered by Ord. #894, April 2002)

14-405. Approved site plan required to disturb land. Except as hereinbefore provided in § 14-402, it shall be unlawful for any person to: Alter the grade of any land in such a manner as to change the contours in excess of two feet within ten feet of adjacent land, or in excess of three feet elsewhere; construct any streets, alleys, sidewalks, curbs, or gutters; build any retaining walls; construct any off-street parking facility; construct any drain or sewer or change or divert the flow of storm water or natural water courses until a site plan has been submitted and approved in accordance with this chapter. (1972 Code, § 11-205, as renumbered by Ord. #894, April 2002)

14-406. Development according to site plan. It shall be unlawful for any person to construct, erect, or alter any building or structure or to develop, change, or improve land for which an approved site plan is required by this chapter, except in accordance with the approval final site plan. (1972 Code, § 11-206, as renumbered by Ord. #894, April 2002)

14-407. Permits not be issued without approved site plans. No permit shall be issued to erect or alter any building or structure or alter the grade of any land that is subject to this chapter until a site plan has been submitted and approved in accordance with the provisions of this chapter. (1972 Code, § 11-207, as renumbered by Ord. #894, April 2002)

14-408. Site plan submission. The owner or developer shall submit three copies (or as many as may be required by the city engineer) of his proposed site plan to the city engineer five days prior to his intended date of site alterations. The city engineer shall consider the site plan in light of the provisions of this chapter and approve or disapprove same as required. The plan shall then be returned to the owner or his agent with the date of such approval or disapproval noted thereon over the signature of the city engineer. (1972 Code, § 11-208, as renumbered by Ord. #894, April 2002)

14-409. Site plan. (1) The site plan shall show the following:

- (a) Name of development or address.
- (b) Name and address of owner of record and the applicant.
- (c) Present zoning of the site and abutting property.
- (d) Date, scale, and north point with reference to source of meridian.
- (e) Courses and distances of center lines of all streets and all property lines.
- (f) All building restricting lines, highway setback lines, easements, covenants, reservations, and rights-of-way.
- (g) The total land area.
- (h) Topography of existing ground and paved areas and elevations of streets, alleys, utilities, sanitary and storm sewers, and

buildings and structures. Topography to be shown by dashed line illustrating two foot or five foot contours as required by the city engineer and by spot elevations where necessary to indicate flat areas, as based on U.S.C. and G.S. datum.

- (i) Two spaces for the signed approval of the commission.
- (2) The site plan shall show the location of the following when existing:
 - (a) Sidewalks, streets, alleys, easements, and utilities.
 - (b) Buildings and structures.
 - (c) Public sewer systems.
 - (d) Slopes, terraces, and retainings walls.
 - (e) Driveways, entrances, exits, parking areas, and sidewalks.
 - (f) Water mains and fire hydrants.
 - (g) Trees and shrubs.
 - (h) Recreational areas and swimming pools.
 - (i) Natural and artificial water courses.
 - (j) Limits of flood plains.
- (3) The site plan shall show the location, dimensions, size, and height of the following when proposed:
 - (a) Sidewalks, streets, alleys, easements, and utilities.
 - (b) Buildings and structures.
 - (c) Public sewer systems.
 - (d) Slopes, terraces, and retaining walls.
 - (e) Driveways, entrances, exits, parking areas, and sidewalks.
 - (f) Water mains and fire hydrants.
 - (g) Trees and shrubs.
 - (h) Recreational areas.
 - (i) Distances between buildings.
 - (j) Estimates of the following.
 - (i) Number of dwelling units.
 - (ii) Number of parking spaces.
 - (iii) Number of loading spaces.
 - (iv) Square feet of floor space.
 - (v) Number of commercial or industrial tenants and employees.
 - (vi) Plans for collecting storm water and methods of treatment of natural and artificial water courses including a delineation of limits of flood plains if any.
 - (vii) Proposed grading, surface drainage, terraces, retaining wall heights, grades on paving areas, and ground floor elevations of proposed buildings and structures. Proposed topography of site shall be shown by two or five foot contours as required by the city engineer.

(4) The site plan shall include an adequate "erosion control plan" which meets the specifications of the soil conservation district. (1972 Code, § 11-209, as renumbered by Ord. #894, April 2002)

14-410. Requirements, regulations, and restrictions. (1) Any building or structure erected or altered shall comply with the provisions of the municipal code as amended and any applicable laws of the State of Tennessee.

(2) Any work or development on the site, including but not limited to the following, shall comply with the provisions of the municipal code as amended and any applicable laws of the State of Tennessee: The grading of land; the installation of utilities; the construction of curbs, gutters and sidewalks; the construction of streets, alleys, and retaining walls; the construction of drains and sewers; the construction of off-street parking; the construction or erection of any improvement on the site.

(3) Any public or structure shall be reasonably accessible to fire, police, emergency, and service vehicles. When deemed necessary for access by the fire chief or city engineer, emergency vehicle easements shall be provided. The access for fire, police, and emergency vehicles shall be unobstructed at all times.

(4) The width, grade, location, alignment, and arrangement of streets, sidewalks, and alleys shall conform to the master plan and/or subdivision regulations of the city as near as is reasonably practicable.

(5) Off-street parking facilities shall have a reasonable slope and be accessible, safe, and properly drained.

(6) Streets, sidewalks, and alleys shall, insofar as reasonably practicable, provide access and good traffic circulation to and from adjacent lands, existing streets, alleys, and sidewalks and proposed or planned streets, alleys, and sidewalks. Where deemed necessary by the planning commission, commercial property fronting on major or secondary thoroughfares (also known as arterials or collectors) shall be required to provide a frontage access road of no less than 27 feet in width with permanent or temporary access to the public thoroughfare to be provided at a location deemed desirable by the planning commission.

(7) Adequate water mains and fire hydrants shall be provided in accessible places in accordance with good fire fighting and fire prevention practice acceptable to the chief of the fire department.

(8) Adequate provision shall be made for the collection and disposition of all on site and off site storm water and natural surface water. Natural drainageways shall be used when it is reasonably practicable to do so, and improvements shall be made to said ways in accordance with good engineering practice when, in the opinion of the city engineer, good engineering practice indicates the need for improvements.

(9) Adequate provision shall be made for the collection and disposition of all on and off site sanitary sewage.

(10) Adequate provision shall be made to control flooding.

(11) The obstruction of natural water courses shall be avoided.

(12) Adequate provision shall be made to control the slippage, shifting, erosion, accretion, and subsidence of soil.

(13) Adequate provision shall be made to control the slipping and shifting of buildings and structures.

(14) Adequate provision shall be made to protect other lands, structures, persons, and property. (1972 Code, § 11-210, as renumbered by Ord. #894, April 2002)

14-411. Appeals. If an applicant determines that his site plan has been unjustly disapproved or that the city engineer has made requests for conformity to standards other than those set forth in this chapter, he may appeal the decision of the city engineer to the city council. (1972 Code, § 11-211, as renumbered by Ord. #894, April 2002)

CHAPTER 5

STORMWATER MANAGEMENT POLICY

SECTION

- 14-501. General provisions.
- 14-502. Waivers.
- 14-503. Stormwater system design and management standards.
- 14-504. Post construction.
- 14-505. Existing locations and developments.
- 14-506. Illicit discharges.
- 14-507. Enforcement.
- 14-508. Penalties.
- 14-509. Appeals.

14-501. General provisions. (1) Purpose. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the City of Athens and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city;

(b) Enable the City of Athens to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR '122.26 for stormwater discharges;

(c) Allow the City of Athens to exercise the powers granted in Tennessee Code Annotated 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The City of Athens shall administer the provisions of this chapter.

(3) Stormwater management policy. The City of Athens has adopted a stormwater management policy. The intended purpose of this policy is to safeguard properly and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. (as added by Ord. #894, April 2002, and replaced by Ord. #922, Oct. 2004)

14-502. Waivers. (1) General. Any construction or site work project shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Athens for approval.

(2) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Athens.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City of Athens that the waiver will not lead to any of the following conditions downstream:

- (a) Deterioration of existing culverts, bridges, dams, and other structures;
 - (b) Degradation of biological functions or habitat;
 - (c) Accelerated streambank or streambed erosion or siltation;
 - (d) Increased threat of flood damage to public health, life or property.
- (4) Grading permit not to be issued where waiver requested. No grading permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan. (as added by Ord. #922, Oct. 2004)

14-503. Stormwater system design and management standards.

(1) Stormwater design or BMP manual. (a) Adoption. The municipality adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

- (i) TDEC Sediment and Erosion Control Manual;
- (ii) TDEC Manual for Post Construction.

(b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the City of Athens, based on improvements in engineering, science, monitory and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for stormwater management. Unless granted a waiver or judged by the City of Athens to be exempt, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches,

recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(d) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Athens to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the City of Athens has granted the applicant a full or partial waiver for a particular BMP under Section 4.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Athens may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City of Athens to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map: Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;

(v) Proposed structural BMPs;

(vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
- (ix) Documentation of sources for all computation methods and field test results.

(c) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(d) Maintenance and repair plan: The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(e) Landscaping plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that

adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in Tennessee.

(f) Maintenance easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(g) Maintenance agreement:

(i) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the City of Athens. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Athens.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Athens shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Athens' cost of performing the maintenance shall be a lien against the property.

(iii) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(h) Sediment and erosion control plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with section (5) below.

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be sealed by a registered professional engineer licensed in the state of Tennessee. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

(a) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be

supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City of Athens. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the City of Athens. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(p) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration. (as added by Ord. #922, Oct. 2004)

14-504. Post construction. (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City of Athens is required before any performance security or performance bond will be released. The City of Athens shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City of Athens.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City of Athens. The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the

maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed in accordance with this chapter.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City of Athens during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the City of Athens, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Athens shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Athens may take necessary corrective action. The cost of any action by the City of Athens under this section shall be charged to the responsible party. (as added by Ord. #922, Oct. 2004)

14-505. Existing locations and developments. (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Athens.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rapp, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

(i) Ponds

(A) Detention pond

(B) Extended detention pond

- (C) Wet pond
- (D) Alternative storage measures
- (ii) Constructed wetlands
- (iii) Infiltration systems
 - (A) Infiltration/percolation trench
 - (B) Infiltration basin
 - (C) Drainage (recharge) well
 - (D) Porous pavement
- (iv) Filtering systems
 - (A) Catch basin inserts/media filter
 - (B) Sand filter
 - (C) Filter/absorption bed
 - (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(2) Requirements for existing problem locations. The City of Athens shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of Athens may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under § 14-514 of this chapter. (as added by Ord. #922, Oct. 2004)

14-506. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wet-land flows;
 - (xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine);
 - (xiv) Fire fighting activities;
 - (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the City of Athens as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the City of Athens has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for

emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Athens in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City of Athens within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (as added by Ord. #922, Oct. 2004)

14-507. Enforcement. (1) Enforcement authority. The city manager or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city manager or his designees finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the director may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(c) Show cause hearing. The director may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served

personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) Compliance order. When the director finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the director finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
- (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(iii) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail. (as added by Ord. #922, Oct. 2004)

14-508. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Athens, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Athens of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the city manager or his designees may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the municipality;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover:

(a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #922, Oct. 2004)

14-509. Appeals. Pursuant to Tennessee Code Annotated 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the municipality's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the municipality shall be final.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #922, Oct. 2004)

CHAPTER 6

LANDSCAPE ORDINANCE

SECTION

- 14-601. Definitions.
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- 14-603. Applicability.
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- 14-606. Hardships.
- 14-607. Conflict with other articles in the zoning ordinance and existing zoning conditions.
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- 14-610. Street yard requirements.
- 14-611. Parking lot requirements.
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- 14-615. Utility easement policy.
- 14-616. Maintenance/bonding.
- 14-617. Certificate of occupancy/bonding.
- 14-618. Appeals.
- 14-619. Responsibility and enforcement of policy.

14-601. Definitions. For the purposes of this chapter, the following terms, phrases, and words shall have the meaning given herein:

(1) "Caliper." A measurement of the tree trunk diameter measured at 2 and ½ feet above grade level.

(2) "Gross floor area." The total interior space as defined by the Southern Building Code.

(3) "Impervious surfaces." Includes concrete, asphalt, brick, metal, or any other material constructed or erected on landscaped or natural buffer areas that impede the percolation of water into the ground.

(4) "Interior parking bay." All parking bays that do not qualify as a perimeter bay.

(5) "Landscaped area/landscape yard." An area to be planted with grass, trees, shrubs or other natural ground cover. No impervious surfaces are permitted in these areas.

(6) "Landscaped island." A landscaped area defined by a curb and surrounded by paving on all sides.

(7) "Landscaped peninsula." A landscaped area defined by a curb and surrounded by paving on three sides.

(8) "Natural buffer." An area of land set aside for preservation in its natural vegetative state. Plants may not be removed with the exception of poisonous or non-native plant species. In addition, fill/cutting activities, storage of materials, and impervious surfaces are not permitted in these areas.

(9) "New development." Construction of a new building or structure on its own lot is considered as new development. New buildings or structures constructed on a lot which already contains existing buildings is considered as an expansion.

(10) "Perimeter bay." All parking bays that are adjacent to the perimeter of a development.

(11) "Screening shrubs." Evergreen shrubs that maintain their foliage year-round.

(12) "Screening trees." Evergreen trees that maintain their foliage year-round.

(13) "Street yard." A designated landscaped area where private property abuts the public street right-of-way for planting of grass, trees, and shrubs. (as added by Ord. #895, April 2002)

14-602. Purpose and intent. The purpose and intent of this section is to preserve and promote the health, safety, and the general welfare of the public; to facilitate the creation of a convenient, attractive, and harmonious community; to conserve properties and their values; and to preserve the character of an area by preventing the harmful effects of prejudicial land uses. More specifically, this section is intended to require the landscaping of parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, the glare of motor vehicle lights, the level of carbon dioxide in the atmosphere, and soil erosion, while providing shade, and enhancing the blighted appearance of parking lots. (as added by Ord. #895, April 2002)

14-603. Applicability. The requirements of this section shall apply to:

(1) All new public/private development.

(2) Existing public/private developments. For existing developments and parking facilities, expansions in gross floor area (GFA) or parking spaces shall trigger landscape requirements based on the scope of work proposed as established below. Where both the building expansion and parking lot expansion requirements are applicable, the building expansion requirements shall supercede:

(a) Building expansions: (i) If an existing building, structure, or development is expanded by fifty (50%) percent or more in gross floor area, then the entire building, structure, or development shall comply with the provisions of this chapter.

(ii) If an existing building, structure, or development is expanded by forty-nine (49%) percent or less in gross floor area,

then the entire building, structure, or development shall be exempt from complying with the provisions of this chapter.

(b) Parking lot expansions: (i) If the number of existing parking spaces for an existing building, structure or development is expanded by twenty-five (25%) percent to forty-nine (49%) percent, then the area of expansion shall comply with the provisions of this chapter.

(ii) If the number of existing parking spaces for an existing building, structure or development is expanded by fifty (50%) percent or more, then the entire parking lot shall comply with the provisions of this chapter.

(3) Exemptions: One-family detached and two-family residential dwellings are exempt from landscaping requirements. (as added by Ord. #895, April 2002, and replaced by Ord. #920, Aug. 2004)

14-604. Landscape plan submittal. Proposed developments subject to the provisions of this section shall submit a landscape site plan to the building inspections office. A licensed landscape architect, architect, or engineer may be required to design the landscape plan. Such requirements will be based on the complexity of the conditions, the adjacent properties, and the site itself. This determination will be made by the city manager, public works director, community development director, or their designee. This plan may be incorporated into a site plan or parking/paving plan, provided the scale is not less than one (1) inch equals forty (40) feet. The following elements shall be shown on the landscape site plan:

- (1) Zoning of site and adjoining properties;
- (2) Existing and proposed contours at 5 feet intervals or less;
- (3) Boundary lines and lot dimensions;
- (4) Date, graphic scale, north arrow, title and name of owner, and the phone number of the person or firm responsible for the landscape plan;
- (5) Location of all proposed structures and storage areas;
- (6) Existing and proposed drainage features and 100-year floodplain, if applicable;
- (7) Parking lot layout including parking stalls, bays, and driving lanes;
- (8) Existing and proposed utility lines, and easements;
- (9) All paved surfaces and curbs, including curb breaks/cuts for drainage;
- (10) Existing trees or natural areas to be retained, and
- (11) Location of all required landscaping areas (street yard, landscaped peninsulas, landscaped islands, and screening buffers). (as added by Ord. #895, April 2002)

14-605. Plant installation detail plan. Prior to receiving a certificate of occupancy, a plant installation plan shall be submitted to the building inspections office and approved containing the following information:

- (1) Location, installation size, quantity, and scientific and common names of landscaping to be installed; and
- (2) Spacing between trees and shrubs used for screening.

The applicant has the option of submitting both the landscape plan and the plant installation detail plan at the same time. (as added by Ord. #895, April 2002)

14-606. Hardships. (1) Intent. This section does not intend to create undue hardship on affected properties. The required landscaping should not exceed 15% of the total lot area. For existing developments, where the GFA or parking areas are being increased, the loss of off-street parking spaces (required by zoning ordinance) as a result of compliance with the landscaping provisions should not exceed 10%.

(2) Special administrative remedies. Lots with a depth of 150 feet or less, or an area of 15,000 square feet or less, have the following special exceptions:

- (a) An automatic fifty percent (50%) reduction in landscape yard depth requirements for screening, street yard, and parking lot landscaping sections; and
- (b) A twenty-five percent (25%) reduction in planting requirements for all sections except for the required evergreen plantings for screening.

Lots, which front on more than one street, have the following special exception: all street frontages other than the primary street frontage may have a street yard with a minimum depth of four (4) feet.

In situations where the landscape requirements would result in the demolition of an existing building, a loss of more than ten percent (10%) of the gross required off-street parking for an existing development; or a loss greater than fifteen percent (15%) of the lot area for development, the following administrative remedies may be applied:

- (i) Reduce the required minimum landscaped area widths up to fifty percent (50%); and
 - (ii) Reduce the tree planting requirements by up to twenty-five percent (25%).
- (3) Administrative guidelines. (a) Where possible, reduction of landscaping requirements in one area should be offset by an increase of landscaping requirements in other portions of the site.
- (b) The first priority is to provide trees along the street frontage.
 - (c) The second priority is to provide trees within portions of the parking lot that are highly visible from the street.

(d) A screen should always be provided if it is required by this section. Where there are space limitations or potential sight distance problems, reduce the landscape yard as necessary. If the planting area is less than five (5) feet in width, require a minimum six (6) feet tall wood or composite fence or masonry wall. (as added by Ord. #895, April 2002)

14-607. Conflict with other articles in the zoning ordinance and existing zoning conditions. Where any requirement of this section conflicts with the requirement of another article or existing zoning conditions in the zoning ordinance, the provisions of this landscaping section shall override. (as added by Ord. #895, April 2002)

14-608. Trees projecting over streets, alleys, or sidewalks prohibited. In accordance with title 16 entitled "Streets and Sidewalks, etc." of the Athens Municipal Code, it shall be unlawful for any property owner or occupant to allow any limbs of trees on his/her property to project out and/or over any street, alley or sidewalk at a height of less than fourteen (14) feet. (as added by Ord. #895, April 2002)

14-609. Trees, etc., obstructing view at intersections prohibited. In accordance with title 16 entitled "Streets and Sidewalks, etc." of the Athens Municipal Code, it shall be unlawful for any property owner or occupant to have or maintain on his property any fence, tree, hedge or billboard which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. The above mentioned obstructions shall not be above two (2) feet in height and shall not be allowed within fifty (50) feet from the centerline of any street. The aforementioned is not applicable to buildings or their appendages or retaining walls. (as added by Ord. #895, April 2002)

14-610. Street yard requirements. (1) Intent. The intent of this section is to add quality and definition to the street by planting trees within a landscaped area along the edges of the right-of-way.

(2) Dimensions. Except for points of access, a street yard shall be provided where the proposed development site adjoins the public street right-of-way. Alleys are exempt from this requirement. The street yard shall have a minimum depth of eight (8) feet as measured from the edge of the public street right-of-way towards the interior of the property. The yard shall consist of sod grass or other natural living ground cover material. No impervious surfaces are permitted in the street yard area. If the area between the street right-of-way and/or property line and the edge of pavement or back of curb is disturbed, that area shall be restored to the original condition prior to disturbance.

(3) Plantings. Trees shall be planted within the street yard at a minimum ratio of one (1) tree per thirty-five (35) linear feet of right-of-way frontage. Trees do not have to be evenly spaced in thirty-five (35) feet increments. Fractions of trees shall be rounded up to the nearest whole number. The minimum spacing between trees is fifteen (15) feet measured trunk to trunk. The maximum spacing is fifty (50) feet measured trunk to trunk. The trees referred to in this section shall have a minimum expected maturity height of at least twenty-five (25) feet and should be of a species common to southeast Tennessee.

(4) Existing woodlands. Existing woodlands along the street right-of-way frontage can be substituted for the street yard requirements subject to the following:

(a) Existing woodlands to be set aside shall have a minimum depth of 25 feet as measured from the public street right-of-way;

(b) Number of woodland trees (not including prohibited trees) having a minimum caliper of 6 inches shall equal or exceed the minimum street tree planting ratio of 1 tree per 35 linear feet;

(c) No impervious surfaces are permitted within the protected woodlands area except for approved access points to the site or as a part of the stormwater plan; and

(d) No cutting/filling activities or storage of materials/equipment are permitted within the protected woodlands.

(5) Exemptions/special situations. Properties adjoining rights-of-way that encroach into established parking areas more than twenty feet have the following street yard options:

(a) Plant street trees within the right-of-way provided written permission is obtained from the owner of the public right-of-way;

(b) If permission cannot be obtained to plant in the right-of-way, no street yard will be required. However, the street trees will be relocated somewhere within the site in an area highly visible from the street. These trees cannot be used to meet requirements in other sections.

Existing street trees planted within the right-of-way (not including the center median or opposite side of the street) can be used to meet the street yard requirements.

Where overhead powerlines encroach into the street yard, smaller shade trees may be substituted for larger shade trees.

Stormwater facilities may be located within the street yard subject to the following conditions:

(i) Trees and other living organic materials can be planted along the stormwater facility; however, the facility must be maintained in accordance with the stormwater management policy;

(ii) The stormwater facility must meet all requirements of the City of Athens.

With the written approval of the right-of-way owner, portions of the public right-of-way may be used to meet the street yard requirements. (as added by Ord. #895, April 2002)

14-611. Parking lot requirements. (1) Intent. The intent of this section is to breakup the expanse of asphalt, to provide shade, and to reduce the glare from parked cars and loading docks.

(2) Design criteria. (a) No parking space shall be more than sixty (60) feet from a tree;

(b) Ends of all interior parking bays that contain a minimum of ten (10) contiguous parking spaces shall be bordered on both sides by a landscape island;

(c) Ends of all perimeter parking bays shall be bordered by a landscaped peninsula;

(d) Side and front-facing truck delivery stalls and loading bays shall be screened from the public right-of-way as described below.

(3) Dimensions/planting criteria. Landscaped islands and peninsulas used to meet the landscaping requirements shall have a minimum width of eight (8) feet and a minimum landscaped area of two hundred (200) square feet. Landscaped islands and peninsulas used to meet the landscaping requirements shall be planted with at least one tree. The trees referred to in this parking section shall be of a species common to southeast Tennessee. In the special situations specified below, smaller shade trees may be substituted for larger shade trees:

(a) An overhead obstacle such as a canopy or powerline limits the tree height; or

(b) The tree is located within twenty (20) feet of a building. All landscaped islands, and peninsulas shall be bordered by a curb or a wheel stop. Curb breaks should be utilized to allow stormwater to enter planted areas. The screening material for loading docks and delivery stalls shall consist of the following:

(i) One row of evergreen shrubs spaced a maximum of five (5) feet on-center or a row of evergreen trees spaced a maximum of ten (10) feet on-center; and

(ii) Provide a landscaped yard with a minimum depth of eight (8) feet for the planted screen. (as added by Ord. #895, April 2002)

14-612. Screening requirements. (1) Intent. To provide a transition between incompatible land uses and to protect the integrity of less-intensive uses from more intensive uses, screening and buffering will be required. The purpose of the screen is to provide a year-round visual obstruction. The buffer

provides transition between the incompatible uses by requiring a landscape yard of a minimum specified depth along the shared property line.

(2) Procedure. Refer to the matrix below to determine any screening requirements for the proposed development. First, identify the type of zoning for the proposed development (along the left side of the matrix) and each adjoining property (along the top of the matrix). Find where the zoning of the proposed development and each adjoining property intersect on the matrix. If a screen is required, a capital letter will indicate the type of screen to be applied. A description of each screen type is provided below.

EXISTING

	Manufacturing Warehousing	Commercial	Office	High-Density Residential	Low-Density Residential
Manufacturing Warehousing	Δ	C	B	A	A
Commercial	Δ	Δ	Δ	B	B
Office	Δ	Δ	Δ	C	C
Residential High-Density	A	B	C	Δ	C

No screen or buffer required = Δ

ZONING DISTRICTS

Manufacturing/Warehousing	I-1, I-2
Commercial	B-1, B-2, B-3 and B-4
Office	M-1, and P-1
Residential (High Density)	R-2, R-3, and R-4
Residential (Low Density)	R-E, and R-1

(3) Screening types. (a) **Type A**- thirty (30) feet deep landscape yard planted with:

- (i) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center;

and two (2) rows of shade trees spaced a maximum of thirty-five (35) feet on-center.

(ii) All plantings shall be of a species common to southeast Tennessee.

(b) **Type B** - twenty (20) feet deep landscape yard planted with:

(i) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center; and one (1) row of shade trees spaced a maximum of thirty-five (35) feet on-center.

(ii) All plantings shall be of a species common to southeast Tennessee.

(c) **Type C** - ten (10) feet deep landscape yard planted with:

(i) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center.

(ii) All plantings shall be of a species common to southeast Tennessee.

(d) **Type D** - Dumpsters to be screened in the manner described below:

(i) Screening shall be a minimum height of six (6) feet;

(ii) All four sides of the dumpster shall be screened;

(iii) The screen should incorporate access to the dumpster by using a wood fence or other opaque device to serve as a gate;

(iv) Screening materials can be any combination of evergreen plantings, wood, composite or masonry material.

(e) **Type E** - Stormwater facilities located in the landscaped yard subject to the following conditions:

(i) Trees and other living organic materials can be planted along stormwater facility. (as added by Ord. #895, April 2002)

14-613. Landscaping credits for buffering along perennial streams. Credits for landscaping are available for leaving natural buffers along perennial streams. All credits and buffer designs are subject to the review and approval of the building inspections office and/or the public works department.

(1) A natural buffer with a minimum width equal to three (3) times the stream width shall be provided on each side of the stream; the required width per side shall be no less than twenty-five (25) feet and no more than one hundred (100) feet; the width of the buffer shall be measured from edge of the stream bank.

(2) No vegetation within the natural buffer shall be removed or disturbed except for poisonous, non-native, or noxious plant species.

(3) No fill or cutting activities, including the storage of materials or equipment shall be permitted in the natural buffer area.

(4) No impervious surfaces are permitted in the buffer unless approved as a part of the stormwater plan.

(5) Trees located within the buffer area with a minimum six-inch caliper can be used to meet the landscaping requirements.

(6) The maximum landscaping credit allowance is twenty-five percent (25%) of the landscaping requirements for trees. (as added by Ord. #895, April 2002)

14-614. Plant installation specifications. (1) Intent. All landscaping materials shall be installed in a sound professional manner, and according to professionally accepting good planting procedures. Any landscape material, which fails to meet the minimum requirements at the time of installation, shall be removed and replaced with acceptable materials.

(2) Prohibited plants. The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance:

- | | |
|----------------------|-----------------|
| Kudzu Vine | Garlic Mustard |
| Purple Loosestrife | Paulownia |
| Japanese Honeysuckle | Multiflora Rose |
| Shrub Honeysuckle | Siberian Elm |
| Autumn Olive | Silver Poplar |
| Common Privet | Mimosa |
| Tree of Heaven | Mulberry |
| Silver Maple | |

(as added by Ord. #895, April 2002)

14-615. Utility easement policy. (1) Intent. To avoid damage to utility lines and landscape plantings, all trees and shrubs should be planted outside of existing and proposed utility easements.

(2) Policy. Any tree or shrub used to meet the requirements of this article shall not be located within proposed or existing utility easements unless it meets one of the special exceptions as defined below.

(3) Special exceptions:

(a) Written permission has been obtained from the holder of the utility easement.

(b) Where overhead powerlines cross an area required by the ordinance to be planted with shade trees, smaller shade trees may be substituted.

(4) If none of the special exceptions above apply, the following options shall be considered in order of priority:

(a) **Priority 1** - Plant the tree as close to the easement as possible.

(b) **Priority 2** - For highly visible areas (street yards, parking lots in front), plant the tree in the same general area where it can be seen from the street or parking lot.

(5) In order to allow fire department personnel adequate visibility and access to fire hydrant locations, a three (3') foot buffer with visibility shall be required/provided around all fire hydrants located in areas where landscaping is required by the provisions of this chapter. (as added by Ord. #895, April 2002, and amended by Ord. #920, Aug. 2004)

14-616. Maintenance/bonding. The persons in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in proper, neat and orderly appearance, from refuse and debris, at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first. Other defective landscape material shall be replaced or repaired within three (3) months that meet the requirements of this article. A maintenance/replacement bond in an amount equal to one hundred ten percent (110%) of the projected cost of landscaping shall be provided to the City of Athens of a period not less than one (1) year. (as added by Ord. #895, April 2002)

14-617. Certificate of occupancy/bonding. If the landscaping has not been installed and inspected for proper installation prior to receiving certificate of occupancy, a certificate of occupancy may be granted provided the following conditions are met:

(1) Property owner posts a performance bond or irrevocable letter of credit with the city treasurer;

(2) The amount of the bond or letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a 10% contingency cost, as shown on the submitted landscape plan; and

(3) The cost of the landscaping shall be certified by a licensed contractor.

After receiving the certificate of occupancy, the remaining landscape material shall be installed within six (6) months. The bond or letter of credit shall be called if the required landscaping has not been installed by the end of the six (6) month period, and the funds shall be applied to complete the landscaping work. (as added by Ord. #895, April 2002)

14-618. Appeals. Any person aggrieved by the administration, interpretation, or enforcement of this section may appeal to the board of zoning appeals within thirty (30) days of the decision imposed by the building inspector, city manager, public works director, or any other agent of the City of Athens.

Decisions of the board of zoning appeals may be appealed to court of competent jurisdiction. Should any court of competent jurisdiction find any portion of this section to be unlawful or unconstitutional, such finding shall not affect this section as a whole or any portion of it not found invalid. (as added by Ord. #895, April 2002)

14-619. Responsibility and enforcement of policy. This policy is adopted by the City Council of the City of Athens and by the Athens Municipal Regional Planning Commission.

Inspection and enforcement of the conditions described in this policy are the responsibility of, but not limited to, the public works director, or his designee, or the city building inspector, or other person(s) as designated by the city manager.

Intentional or continued violation of this policy is considered a civil offense as described in City of Athens Ord. #802, § 5 entitled "Penalty clause," of the Athens Municipal Code. (as added by Ord. #895, April 2002)

CHAPTER 7

MOBILE HOMES

SECTION

- 14-701. Definitions as used in this chapter.
- 14-702. General regulations for mobile homes.
- 14-703. General regulations for mobile home parks.
- 14-704. General regulations for travel trailers and travel trailer parks.
- 14-705. Permits.
- 14-706. Fees for permits.
- 14-707. Application for permit.
- 14-708. Enforcement of chapter.
- 14-709. Appeals.
- 14-710. Violations.

14-701. Definitions as used in this chapter. Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions where not inconsistent with the context. For the purposes of this chapter certain words or terms are defined as follows:

The term "shall" is mandatory.

When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular.

Words used in the present tense include the future.

(1) "Mobile home (trailer)." A detached single-family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(d) EXCLUSION. A unit constructed with a minimum of a nominal 2" x 4" studded walls, at least 20' wide which is placed on a permanent masonry foundation, and from which all evidence of mobility has been removed, and which has a sloped roof, shall NOT be considered a "mobile home" regardless of how it is transported to the building site.

(2) "Mobile home park." The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes occupied for dwelling or sleeping purposes, are located.

(3) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(4) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:

(a) can operate independent of connections to external sewer, water, and electrical systems;

(b) contains water storage facilities and may contain a lavatory, kitchen sink, and/or bath facilities.

(5) "Travel trailer park." The term travel trailer park shall mean any plot of ground on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

(6) "Health officer." The director of a city, county, or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(7) "Permit (license)." A permit is required for mobile home parks, single mobile homes, and travel trailer parks. Fees charged for mobile home and travel trailer parks under the permit requirements are for inspection and the administration of this chapter.

(8) "Buffer strip." An evergreen buffer shall consist of a greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedge, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet. (1972 Code, § 8-401, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-702. General regulations for mobile homes. (1) It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the city where said mobile home is outside of any designated and licensed mobile home park or approved mobile home subdivision (see subdivision regulations) after the date of passage of the provisions in this chapter, excepting mobile homes located on licensed mobile home sales lots, and except as provided in the following subsection.

(2) Any mobile home already placed on a lot outside of a mobile home park on or before the date of passage of the provisions in this chapter will be permitted to remain at its present location. Any mobile home site at any location with utility connections and other facilities constructed specifically for utilization as a permanent mobile home parking site, in existence prior to the date of passage of the provisions, shall be permitted to be utilized for parking

and servicing mobile homes hereafter. If said present mobile home shall remain vacant for a period of sixty (60) days, said mobile home owner shall be given, at the end of that sixty (60) days, a period not to exceed fifteen (15) days in which to remove said mobile home and to comply with all provisions of this chapter.

(3) No mobile home shall be used, placed, stored or serviced by utilities within the City of Athens or within any mobile home park in said city unless there is posted near the door of said mobile home a valid Tennessee State License. Mobile homes in mobile home subdivisions and any individually located mobile homes shall be assessed property taxes. (1972 Code, § 8-402, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-703. General regulations for mobile home parks. (1) Permit for mobile home park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless a valid permit is issued by the city building inspector in the name of such person or persons for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter. See §§ 14-705 and 14-707.

Mobile home parks in existence as of the effective date of these provisions shall be required to obtain a mobile home park permit. Existing mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use, provided, however, if at any time the ownership of said park shall change, said new owner shall be given a period not to exceed thirty (30) days in which to comply with current mobile home park regulations in all respects and his failure to do so shall render him ineligible for a mobile home park permit at his present location.

Said existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of said mobile home park.

(2) Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(3) Length of occupancy. No mobile home space shall be rented in any mobile home park except for periods of sixty (60) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the American Standards Association Code Provisions A-119.1 - 1963, American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems, or Mobile Homes Manufacturers Association, Mobile Home Standards for Plumbing, Heating and Electrical

Systems or any state administered code insuring equal or better plumbing, heating, or electrical installations.

(4) Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the city planning commission and shall be located in districts as specified in the zoning ordinance.

(5) Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than five (5) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

(6) Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is twelve (12).

(7) Minimum mobile home space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch,¹ and at least fifteen (15) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and thirty-five (35) feet from the right-of-way of any public street or highway and ten (10) feet from streets within the park. In addition, each mobile home space shall contain:

(a) A minimum lot area of three thousand (3,000) square feet;

(b) A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet;

(c) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet;

(d) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet.

(8) Common area. A centrally located area shall be provided for recreational use by the occupants of the mobile home park. This area shall be maintained in an attractive manner and shall be well drained and free from flood. The minimum size of this area shall be equal to three hundred (300) square feet per mobile home.

(9) Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the city engineer and county health officer.

¹If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individually metered water service connection shall be provided for each mobile home space.

(10) Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer and city engineer. Each mobile home space shall be equipped with at least a six (6) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and subsurface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home on such a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined in Appendix A of the Tennessee Department of Health Bulletin, entitled "Recommended Construction of Large Septic Tank Disposal Systems for Schools, Factories and Institutions." This bulletin is available on request from the department. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

(11) Refuse. The storage, collection, and disposal of refuse in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight, and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least twice per week.

(12) Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulation No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

(13) Streets. Minimum widths of various streets within mobile home parks shall be:

- One-way, with no on-street parking 12 ft.
- One-way, with parallel parking on one side only 18 ft.
- One-way, with parallel parking on both sides 26 ft.
- Two-way, with no on-street parking 20 ft.
- Two-way, with parallel parking on one side only 28 ft.
- Two-way, with parallel parking on both sides 36 ft.

(14) Street or road base. The base shall consist of crushed stone, grade D, class B, compacted to six (6) inches, and constructed as specified in Section 303, Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction, 1968.

(15) Asphaltic concrete surface course (hot mix). The asphaltic concrete surface course (paved surface) shall be constructed with asphaltic concrete (grading E) compacted to two (2) inches with not less than an average weight of two hundred (200) pounds per square yard and constructed as specified in Section 411, pages 258 through 260 of the Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction (and subsequent revisions), January 1, 1968.¹

(16) Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each three (3) lots to provide for guest parking, for two-car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

¹Standards and specifications as indicated in the Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction, are subject to periodic revision. Revisions made in Sections 35 and 104 should be incorporated in new road construction.

(17) Buffer strip. An evergreen buffer strip shall be planted along all boundaries of the mobile home park (see definition). (1972 Code, § 8-403, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-704. General regulations for travel trailers and travel trailer parks.

(1) Occupied travel trailers restricted to parks. It shall be unlawful for any travel trailer to be occupied or serviced outside of any properly designated travel trailer park. This provision shall not apply to the storage of travel trailers provided said trailer unit is neither temporarily nor permanently occupied as a dwelling unit while within the city limits.

(2) Permit for travel trailer park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a travel trailer park unless he holds a valid permit issued by the city building inspector in the name of such person or persons for the specific travel trailer park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(3) Inspections by city building inspector or county health officer. The city building inspector or county health officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building inspector or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(4) Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than fourteen (14) days.

(5) Location. Travel trailer parks shall be located in districts as specified in the zoning ordinance of the City of Athens.

(6) Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.

(7) Site planning improvements. Site planning improvements shall conform to the standards established in Regulations VIXX of the State Regulations Governing the Construction, Operation and Maintenance of Organized Camps in Tennessee, as provided in Chapter 65, Public Acts of 1965. (1972 Code, § 8-404, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-705. Permits. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of the city, any mobile home park unless such person or persons shall first obtain a permit therefor. (1972 Code, § 8-405, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-706. Fees for permits. An annual permit fee shall be required for mobile home parks and travel trailer parks.

(1) Mobile home parks. The annual permit fee for mobile home parks shall be twenty-five (25) dollars.

(2) Travel trailer parks. The annual permit fee for each travel trailer park shall be twenty-five (25) dollars. (1972 Code, § 8-406, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-707. Application for permit. (1) Mobile home parks. The application for a mobile home park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the mobile home park plan. The application shall be in writing and signed by the applicant and shall be accompanied by an approved plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
- (b) Name and address of owner of record;
- (c) Proposed name of park;
- (d) North point and graphic scale and date;
- (e) Vicinity map showing location and acreage of mobile home park;
- (f) Exact boundary lines of the tract by bearing and distance;
- (g) Names of owners of record of adjoining land;
- (h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
- (j) Provisions for water supply, sewerage, and drainage;
- (k) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements; and

(l) The application and all accompanying plans and specifications shall be filed in triplicate.

Certificates that shall be required are:

- (i) owner's certification;
- (ii) planning commission's approval signed by the secretary; and
- (iii) any other certificate deemed necessary by the planning commission.

(2) Individual mobile homes. The application for an individual mobile home permit shall be filed with and issued by the city building inspector.

Applications shall be in triplicate form and signed by the applicant. The application shall contain the following:

- (a) The name of the applicant who is to reside in the mobile home;
- (b) The location of the mobile home;
- (c) A description of the mobile home, make, model and year;
- (d) The state mobile home license number and date; or if property taxes are being paid by the applicant for said mobile home, applicant shall indicate date taxes last paid and amount.
- (e) Any additional information as may be required by the city to enable it to determine if the mobile home and site will comply with all legal requirements.

(3) Travel trailer parks. Applications for travel trailer parks shall meet the same requirements as contained in subsection (1). (1972 Code, § 8-407, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-708. Enforcement of chapter. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter.

Where septic tanks are to be used, the planning commission shall require certificates of approval by the county health officer. (1972 Code, § 8-408, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-709. Appeals. (1) Board of appeals. The Athens Regional Planning Commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision, or determination made by the building inspector in the enforcement of this chapter may appeal for and receive a hearing by the board of appeals (advised by the city attorney) for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the board of appeals, with advice from the city attorney, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision, or determination made by the building inspector.

(2) Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the board of appeals and the city attorney may seek review, by a court of record, of such decision in the manner provided by the laws of the State of Tennessee. (1972 Code, § 8-409, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-710. Violations. Any person or corporation who violates the provisions of this chapter or the rules and regulations adopted pursuant hereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer, after receipt of five (5) days written notice of such

requirements, shall be fined under the general penalty clause for this code of ordinances. (1972 Code, § 8-410, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic control signs, etc.
- 15-108. General requirements for traffic control signs, etc.
- 15-109. Unauthorized traffic control signs, etc.
- 15-110. Presumption with respect to traffic control signs, etc.
- 15-111. School safety patrols.

¹Municipal code reference

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

Traffic regulations in park and recreation facilities: § 20-305.

²See title 11, chapter 8, Miscellaneous for the following municipal offenses:

Use of safety belts in passenger vehicles--violations--penalties--arrest--applicability; Child passenger restraint systems--violations--penalties, Trespass by motor vehicle; Motor vehicle windows with tinting, reflecting or sun screen; Transporting child in truck bed; Crash helmet required for driver and passenger--exceptions; and Following too closely (Tennessee Code Annotated, §§ 55-9-603, 55-99-602, 39-14-407, 55-9-107, 55-8-189, 55-9-302, and 55-8-124).

- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise, etc.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Weight limits.
- 15-122. City manager authorized to erect traffic control signs, etc.
- 15-123. City manager authorized to issue permits for twin trailers.
- 15-124. Pedestrians' right-of-way in crosswalks.
- 15-125. Crossing at other than crosswalks.
- 15-126. Compliance with financial responsibility law required.

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. (1972 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1972 Code, § 9-106)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1972 Code, § 9-109)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width a vehicle shall be driven upon the right half of the street except:

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

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

(c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1972 Code, § 9-110)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1972 Code, § 9-111)

15-106. 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. (1972 Code, § 9-112)

15-107. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking or device placed or erected by the state or the municipality. (1972 Code, § 9-113)

15-108. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the municipality. (1972 Code, § 9-114)

¹Municipal code references

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

²This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking or device or any railroad sign or signal. (1972 Code, § 9-115)

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper - municipal authority. (1972 Code, § 9-116)

15-111. 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. (1972 Code, § 9-117)

15-112. 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. (1972 Code, § 9-118)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, skate board 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. (1972 Code, § 9-120, modified)

15-114. 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. (1972 Code, § 9-121)

15-115. 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. (1972 Code, § 9-122)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) 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 (200) feet from the rear of such vehicle. (1972 Code, § 9-123)

15-117. Causing unnecessary noise, etc. 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. Furthermore, no person shall drive a motor vehicle on any road, street, or highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

It shall be unlawful to use a "muffler cutout" on any motor vehicle upon any road, street or highway. (1972 Code, § 9-124)

15-118. 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." (1972 Code, § 9-125)

15-119. 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.

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. (1972 Code, § 9-126)

15-120. Damaging pavements. No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1972 Code, § 9-119)

15-121. Weight limits. No person shall operate within the corporate limits any tandem vehicle so loaded as to have a gross weight of over 46,000 pounds or any single axle vehicle so loaded as to have a gross weight of over 26,000 pounds. (1972 Code, § 9-127)

15-122. City manager authorized to erect traffic control signs, etc. After proper determination of the traffic situation in the City of Athens, the city manager is empowered to erect traffic control signs, speed limit signs, street markers to control traffic, and to post any and all signs within the corporate limits of the City of Athens that may be so needed for the control of the traffic therein.

After said traffic control legends, signs, etc., are posted, any person operating a vehicle contrary to the traffic control signals, signs, speed limit signs, and street markers shall be guilty of a misdemeanor. (1972 Code, § 9-128)

15-123. City manager authorized to issue permits for twin trailers. The city manager is empowered to issue permits for designated routes to transportation firms wanting to operate twin trailers within the corporate limits of the City of Athens, as provided by the Tennessee Code Annotated, § 55-7-208. The designated routes shall be determined by the city manager. (1972 Code, § 9-129)

15-124. Pedestrians' right-of-way in crosswalks. (1) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(3) Paragraph (1) shall not apply under the conditions stated in § 15-125(2).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (1972 Code, § 9-130)

15-125. Crossing at other than crosswalks. (1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk. (1972 Code, § 9-131)

15-126. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law (Tennessee Code Annotated, § 55-12-139).

(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.

(3) For purposes of this section, "financial responsibility" means:

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

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

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

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 not to exceed the maximum amount provided in Tennessee Code

Annotated, § 55-12-139(c). 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.

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. (as added by Ord. #893, April 2002)

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. (1972 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.¹ (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 lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1972 Code, § 9-103)

¹Municipal code reference

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

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within five hundred (500) feet of where fire apparatus has stopped in answer to a fire alarm. (1972 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1972 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones and near play grounds.

15-304. In congested areas.

15-305. On parking lots.

15-306. Cruising in motor vehicles on shopping center parking areas and roadways.

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. (1972 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1972 Code, § 9-202)

15-303. In school zones and near play grounds. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of twenty (20) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police. (1972 Code, § 9-203, modified)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1972 Code, § 9-204)

15-305. On parking lots. It shall be unlawful for any person to drive or operate a motor vehicle upon any parking lot at a rate of speed in excess of 15 m.p.h. (1972 Code, § 9-205)

15-306. Cruising in motor vehicles on shopping center parking areas and roadways. (1) That owners and operators of shopping centers in the city are

hereby authorized to post signs on and about the parking areas and private roadways on their properties giving notice that cruising on the property is prohibited.

(2) That the term "cruising" as used in this section is defined as the continual, repeated, and aimless operation of a motor vehicle back and forth, through, around or within the parking areas and private roadways of a shopping center after 8:00 p.m. until the following sunrise other than for the purpose of entering or leaving a parking space where the vehicle has been parked while the driver or passenger(s) is or was visiting the shopping center or business.

(3) That it shall be a violation of this section and a trespass for any person to cruise on any shopping center parking area and/or private roadways that have been posted by the owner or operator as authorized in subsection (1). (1972 Code, § 9-206)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Signals.

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. Signals. 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 signaling his intention in accordance with the requirements of the state law.¹ (1972 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1972 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1972 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1972 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1972 Code, § 9-305)

¹State 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 railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge 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. (1972 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1972 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1972 Code, § 9-403)

¹Municipal code reference

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

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1972 Code, § 9-404)

15-505. 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. (1972 Code, § 9-405)

15-506. 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. (1972 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

- (1) Green alone, or "Go":
 - (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow alone, or "Caution":
 - (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
 - (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that vehicular traffic facing such signal may cautiously enter the intersection to make a right turn but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

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

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1972 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:

(a) 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.

(b) 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.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1972 Code, § 9-408)

15-509. At pedestrian-control signals. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1972 Code, § 9-409)

15-510. 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,¹ except in an emergency. (1972 Code, § 9-410)

¹State 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. Regulation of parking.
- 15-607. Unlawful to park in space designated for handicapped persons.
- 15-608. Presumption with respect to illegal parking.
- 15-609. Municipally owned parking lots.

15-601. Generally. Except as hereinafter provided, every vehicle parked upon a street within this municipality shall be so parked that its right wheels are parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

No person shall park or leave a vehicle, motorized or non-motorized, or any trailer parked on any other public street for more than twenty-four (24) hours without prior approval of the chief of police. Upon written request, the chief of police, or his/her designee, will investigate the proposed parking to ensure that the parked vehicle or trailer does not pose a traffic hazard and, upon determining that no hazard exists, may grant approval for the vehicle or trailer to be parked on the public street. In no case will permission be granted for more than seven (7) days.

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. (1972 Code, § 9-501, as amended by Ord. #917, April 2004)

15-602. Angle parking. On those streets which have been signed or marked by the municipality for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1972 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1972 Code, § 9-503)

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

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within fifty (50) feet of a railroad crossing.
- (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow or red by the municipality.
- (12) Alongside or within a fire lane provided such fire lane has been properly sign posted or indicated by pavement marking. (1972 Code, § 9-504, as amended by Ord. #783, Nov. 1993)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1972 Code, § 9-505)

15-606. Regulation of parking. (1) Lines, markings to designate free parking spaces. The city manager shall have lines or markings painted or placed upon the curb and/or upon the street for the purpose of designating the parking spaces to be used and each vehicle parking adjacent or next to any parking space shall park within the lines or markings so established. It shall be unlawful to park any vehicle across any such line or marking or to park said vehicle in such position that the same shall not be entirely within the area designated by such lines or markings.

(2) Overtime parking prohibited. It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle registered in the name of, or operated by such person, to be parked overtime or beyond the period of legal parking time established for any parking zone.

(3) Drivers implied consent to parking control marks on tires; erasure or concealment of parking control marks on vehicle tires prohibited; evading parking time limitation prohibited. (a) Any person who operates any vehicle upon the streets, thoroughfares and public travelways within the corporate limits of the city and who utilizes the two (2) hour free on-street

parking spaces provided herein gives his or her consent to the placement of nonpermanent parking control marks upon the tires of any vehicle parked in said designated two-hour free parking spaces.

(b) It shall be unlawful for any person to cause, allow, or permit the movement of any vehicle within the same parking space as to cover up or otherwise conceal said nonpermanent parking control marks placed upon vehicle tires by law enforcement officers to compute overtime parking or to in any manner, erase, wash, remove, obscure, obliterate, or otherwise wipe off said time marks placed upon said vehicle's tires while parked in the same parking space.

(c) It shall be unlawful for a vehicle to be moved with the purpose of evading parking time limitation to another parking space located within the same city block. The movement of a vehicle less than thirty (30) minutes before or after the expiration of said parking time limitation from one parking space to such other parking space shall be presumed to have been moved with the purpose of evading the parking limitation.

(d) Any person found in violation of this section shall be deemed guilty of an offense and upon conviction shall pay a fine as assessed by the city judge. (Ord. #770, Dec. 1992)

15-607. Unlawful to park in space designated for handicapped persons. Unless qualified, it shall be unlawful for the operator of a vehicle to park in a space designated for handicapped persons, unless the driver or an occupant of the vehicle meets the definition of a medically handicapped person.

A handicap parking stall is defined as a stall so designated by a handicap parking sign as well as pavement marking symbols. Said sign shall be in accordance with the Tennessee Manual on Uniform Traffic Control Devices. (1972 Code, § 9-507)

15-608. 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. (1972 Code, § 9-508)

15-609. Municipally owned parking lots. On any municipally owned parking lots, not used in connection with a municipal function or facility, the same may be used by the general public for parking motor vehicles, under such rules and regulations as the city council may make. No spaces may be reserved except by special permission of the city council. No vehicle shall be parked on said municipally owned parking lots more than 24 consecutive hours. Any vehicle parked in violation of this section or parking regulations made by the city council may be removed at the owner's expense and the owner or operator would be guilty of a misdemeanor. (1972 Code, § 9-509)

CHAPTER 7

BICYCLES AND MOTOR DRIVEN CYCLES

SECTION

15-701. Restrictions on carrying passengers, riding on sidewalks, height of handlebars, and holding to other moving vehicles.

15-702. Required equipment for motorcycles, motor scooters, and motor driven cycles.

15-701. Restrictions on carrying passengers, riding on sidewalks, height of handlebars, and holding to other moving vehicles. No driver of a two or three wheel motor vehicle or bicycle shall carry any other person on, upon, or within such vehicle on any street or highway in the City of Athens, except as hereinafter provided. If any two or three wheel motor vehicle with a wheel diameter of twelve (12) inches or greater, or any bicycle, shall have either a double seating device with double foot rests or a side car attachment providing a separate seat space within such side car attachment for each person riding therein so that such person shall be seated entirely within the body of said side car, then it shall be permissible for an operator who has attained the age of sixteen (16) years or older to carry a passenger. A demonstration ride by a licensed dealer or his employee is excepted from the provisions hereof. No motorcycle or motor scooter shall be ridden upon any sidewalk of the City of Athens. No bicycle shall be ridden upon a sidewalk, unless such sidewalk is part of the city-wide bikeway and is marked accordingly. Handlebars on bicycles, motorcycles, and motor scooters shall not exceed twelve (12) inches in height, measured from the crown or point of attachment. No rider of a motorcycle, bicycle, or motor scooter shall hold to any moving vehicle for the purpose of being propelled. (1972 Code, § 9-602)

15-702. Required equipment for motorcycles, motor scooters, and motor driven cycles. The following provisions shall apply for all motorcycles, motor scooters, and motor driven cycles operated on public streets of the city:

(1) Rear view mirrors: All vehicles covered under this section shall be equipped with two (2) mirrors, containing a reflection surface of not less than three (3) inches in diameter, mounted one on each side of the vehicle and positioned so as to enable the operator to clearly view the roadway for a distance of two hundred (200) feet to the rear of his vehicle.

(2) Windshield: All vehicles covered under this section shall be equipped with a windshield of sufficient quality, size, and thickness to protect the operator from foreign objects, except that in lieu of such windshield the operator shall wear goggles or a face shield of material and design to protect him from foreign objects.

(3) Brakes: All vehicles covered under this section shall be equipped with brakes adequate to control the movement of same, to stop and hold such vehicle, including two separate means of applying the brakes. One means shall be effective to apply the brakes to the front wheel and one means shall be effective to apply the brakes to the rear wheels.

(4) Speedometer: All vehicles covered under this section shall be equipped with a properly operating speedometer capable of registering at least thirty-five (35) miles per hour.

(5) Fenders: All vehicles covered under this section shall be equipped with a fender over each wheel. All fenders shall be of the type provided by the manufacturer.

(6) Lights: All vehicles covered under this section shall carry at least one (1) lighted headlamp capable of showing a white light visible at least three hundred (300) feet in the direction in which the same are proceeding, and one tail lamp mounted on the rear which, when lighted, shall emit a red light plainly visible from at least three hundred (300) feet to the rear. Such lights required by this section shall be burning whenever such vehicles are in motion during the period from one-half hour after sunset and one-half hour before sunrise and at any other time when due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the streets are not clearly discernible at a distance of at least five hundred (500) feet ahead; provided that a bicycle in lieu of the red light in the rear may carry a red or ruby glass reflector.

(7) Headgear: No person shall operate or ride upon any vehicle covered under this section unless such person is equipped with and wearing on the head a crash helmet of the type and design manufactured for use by the operators of such vehicles. All crash helmets shall have a lining, padding, and chin straps.

(8) Mufflers: No person shall drive a motor vehicle on any road, street or highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

It shall be unlawful to use a "muffler cutout" on any motor vehicle upon any road, street or highway. (1972 Code, § 9-604)

CHAPTER 8

ENFORCEMENT

SECTION

15-801. Issuance of traffic citations.

15-802. Failure to obey citation.

15-803. Illegal parking.

15-804. Impoundment of vehicles.

15-801. Issuance of traffic citations.¹ 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. (1972 Code, § 9-702)

15-802. 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. (1972 Code, § 9-703)

15-803. 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 four (4) days during the hours and at a place specified in the citation. (1972 Code, § 9-704)

15-804. Impoundment of vehicles. Members of the police department are hereby authorized to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked or abandoned. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. (1972 Code, § 9-701, modified)

¹State law reference

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

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. RIGHTS-OF-WAY MANAGEMENT.
3. STREET NAMES AND PROPERTY NUMBERS.
4. STREET POLICY.
5. SKATEBOARDING AND ROLLER SKATING.
6. CLOSURE AND ABANDONMENT OF STREETS OR RIGHTS-OF-WAY.

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 regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.

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. (1972 Code, § 12-201)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley or sidewalk at a height of less than fourteen (14) feet. (1972 Code, § 12-202)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any fence, tree, hedge or billboard which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. The above mentioned obstructions shall not be above two (2) feet in height and shall not be allowed within fifty (50) feet from the center line of any street. The aforementioned is not applicable to buildings or their appendages or retaining walls. (1972 Code, § 12-203)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1972 Code, § 12-204)

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 governing body. (1972 Code, § 12-205)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley or sidewalk. (1972 Code, § 12-206)

16-107. Littering streets, alleys or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, or allow to fall on any street, alley or sidewalk any refuse, glass, tacks, sweepings, 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. Trucks are expressly required to be so loaded or covered that sand, gravel, or other materials being transported will not be allowed to fall or be blown into any public way or place. (1972 Code, § 12-207)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1972 Code, § 12-208)

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. (1972 Code, § 12-209)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. Parades regulated. It shall be unlawful for any club, organization or similar group to hold any meeting, parade, demonstration or exhibition on the public streets without some responsible representative first securing a permit from the chief of police. No permit shall be issued by the chief of police 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. (1972 Code, § 12-210; as amended by Ord. #866, § 1, Jan. 2000)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1972 Code, § 12-211, modified)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead or tie any animal, or ride, push, pull or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1972 Code, § 12-212)

CHAPTER 2

RIGHTS- OF-WAY MANAGEMENT

SECTION

- 16-201. Intent and purpose.
- 16-202. Permit required.
- 16-203. Applications.
- 16-204. Failure to apply.
- 16-205. Fee.
- 16-206. Deposit.
- 16-207. Manner of excavating--barricades, signage, and lights.
- 16-208. Restoration of public rights-of-way.
- 16-209. Existing facilities in rights-of-way.
- 16-210. Perpetual care.
- 16-211. Inspection.
- 16-212. Specifications.
- 16-213. Insurance.
- 16-214. Indemnification.
- 16-215. Time limits.
- 16-216. Supervision.
- 16-217. Stop work order.
- 16-218. Facility relocation.
- 16-219. Violation and penalty.

16-201. Intent and purpose. In order to provide for the public health, safety and welfare of the citizens of the City of Athens, as well as to ensure the structural integrity of the city's streets and related infrastructures; to minimize the disruption to the traveling public; and to ensure the costs incurred by the city to maintain, and manage the rights-of-way and that they are properly allocated among the various users of the rights-of-way, the city hereby establishes standards for authorizing and managing the placement of facilities in rights-of-way; performing installation, maintenance, and other work in the rights-of-way; and appropriately recovering costs incurred by the city related to such activities. (1972 Code, § 12-101, as replaced by Ord. #906, Feb. 2003)

16-202. Permit required. (1) It shall be unlawful for any person, firm, corporation, public or private utility, association, or others to make any cut or excavation in any street, curb, sidewalk, alley, or public rights-of-way, or to tunnel under any street, sidewalk, curb, alley, or public rights-of-way in the city without having first obtained a rights-of-way construction permit, as herein required, and without complying with the provisions of this chapter; and it shall be unlawful to violate, or to vary from, the terms of any such permit; provided, however, any person maintaining existing pipes, lines, driveways, or other

facilities in or under the surface of any public rights-of-way may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonably and practicably have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city manager is open for business, and said permit shall be retroactive to the date when the work was begun; however, the city manager or his designee shall have the authority to waive emergency permits.

(2) No one shall cut, build, or maintain a commercial or residential driveway across a public rights-of-way without first obtaining a rights-of-way construction permit from the city manager or his designee and receiving the necessary lines and grades from the public works department. 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. (1972 Code, § 12-102, as replaced by Ord. #905, Feb. 2003)

16-203. Applications. Applications for such permits shall be made to the city manager, or such person designated by him to receive such applications, and shall include, but not be limited to the following:

- (1) Name of the owner or operator of the facility; and
- (2) A sketch or drawing of the project; and
- (3) Dates of the construction activity, the proposed start and stop times and any proposal to temporarily reopen any roadway for any "peak hour" period; and
- (4) The names of any known subcontractors working on the proposed project under the applicant's responsibility and authority; and
- (5) Proof of payment of all money due the city for rights-of-way construction permit fees and any invoiced cost, loss, damage, or expense suffered by the city as a result of the applicant's prior construction activity including but not limited to any emergency action taken by the city; and
- (6) Evidence that the applicant has obtained the insurance coverage required by § 16-214; and
- (7) A traffic control plan if traffic is going to be impacted; and
- (8) A list of the applicant's emergency providers, including name of company, local contact person, mailing and e-mail address, 24-hour emergency phone number, and pager or fax number. This information shall be kept current by written notice to the public works director.
- (9) For major projects, as determined by the public works director the following may be required:

(a) Detailed engineering plans. The plans shall show the location and area of the proposed project, the locations of all existing and proposed equipment and/or facilities, the height and/or depth of the proposed equipment and/or existing facilities, and the spatial relationship with any adjacent infrastructure, rights-of-way line, easement, utility,

and/or other physical features. The plans shall be prepared under the direction of and signed by a registered professional engineer, and shall meet the size and scale as set forth in the department of public works' standard design criteria manual; and

(b) A copy of the engineering plans in an electronic format acceptable to the public works director; and

(c) The applicant shall meet with the public works director for a pre-work conference prior to issuance of a rights-of-way construction permit. (1972 Code, § 12-103, as replaced by Ord. #906, Feb. 2003)

16-204. Failure to apply. Any person that fails to comply with § 16-203 shall be precluded from obtaining any rights-of-way construction permit or performing any further construction within the city's rights-of-way for up to three (3) months from the date of notification, in addition to any monetary penalty imposed by the city. (1972 Code, § 12-104, as replaced by Ord. #906, Feb. 2003)

16-205. Fee . The fee for such rights-of-way construction permits shall be set by resolution as adopted by the Council of the City of Athens. (1972 Code, § 12-105, as replaced by Ord. #906, Feb. 2003)

16-206. Deposit. It shall be the responsibility of the permittee to place with the City of Athens a cash deposit or a surety bond either by the job or activity or on an annual basis. The amount of the deposit shall be determined by the city manager or his designee based upon the size and nature of the permitted work within the rights-of-way. The city may use the deposit to cover its cost should a failure of restoration work occur to the public rights-of-way facility. (1972 Code, § 12-106, as replaced by Ord. #906, Feb. 2003)

16-207. Manner of excavating-- barricades, signage, and lights. Any person, firm, corporation, public or private utility, association, or others making any excavation or tunnel shall do so according to the specifications and standards issued by the City of Athens and must comply with the provisions of the Tennessee Underground Utility Damage Prevention Act (Tennessee Code Annotated, § 65-31-101 et. seq.). Sufficient and proper barricades, signage, and lights shall be maintained to protect persons and property from injury by or because of the excavations 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. It shall be the responsibility of the permittee to adhere to the manual on uniform traffic-control devices. (1972 Code, § 12-107, as replaced by Ord. #906, Feb. 2003)

16-208. Restoration of public rights-of-way. Any person, firm, corporation, public or private utility, association or others making any

excavation or tunnel in or under any street, curb, alley or public rights-of-way in the city shall backfill said street, curb, alley or public rights-of-way and restore the same including final surfacing to city specifications and standards promptly upon the completion of the work for which the excavation or tunnel is made. Final surfacing may be done by the city at the expense of the entity for which the excavation or tunnel is made, if requested, providing that city crews can schedule the work within twenty-four hours of this request. If not, the entity will be required to place final surfacing in accordance with the requirements of this chapter. No excavation or tunnel in or under any street, curb, sidewalk, alley, or public rights-of-way shall be permitted to obstruct the flow of traffic unless the permit holder coordinates with the city public works department and police department and provides a plan to address the impact on traffic flow. In the event final resurfacing cannot be completed immediately after backfilling, the entity shall use temporary resurfacing materials such as coldmix or steel plate or an approved detour around such opening or excavation which would aid the flow of traffic. The detour must be approved by the public works director or his designee prior to establishing any such detour. Such detour routes must be adequately signed and marked according to the manual on uniform traffic-control devices. Maintenance of signage and markings will be the responsibility of the permittee. (1972 Code, § 12-108, as replaced by Ord. #906, Feb. 2003)

16-209. Existing facilities in rights-of-way. Between January 1, 2003 and July 1, 2003 each existing rights-of-way occupant with more than 100 linear feet of facilities shall provide the city the following information:

(1) The name, address, telephone number and form of business of the individual, company or corporation owning facilities within the public rights-of-way of the City of Athens, and the names and addresses of all persons authorized to act on behalf of the individual, company or corporation;

(2) The name, address and telephone number of a responsible person whom the city may notify or contact at any time concerning the rights-of-way occupant's facilities;

(3) A detailed description of the physical facilities owned, operated, managed or leased by the rights-of-way occupant as of January 1, 2003. Detailed description to include, but not be limited to, as built drawings and plans of existing facilities showing the locations of the facilities, including any manholes or overhead poles, the size, type and depth of any conduit or other enclosures, and the relationship of the system to all other existing poles, utilities, sidewalks, pavement, telecommunication facilities, and other improvements within the rights-of-way.

Such information must be submitted in hard copy and, if available, digitally. After July 1, 2003 individuals, companies and corporations who have failed to provide the information required in this section shall be prohibited from making extensions, modifications or improvements to any existing facilities

within the rights-of-way of the City of Athens and will not be approved to install any new facilities within the rights-of-way of the City of Athens until the information required in this section is provided. Nothing in this section shall be construed as granting permission or authority for an unauthorized facility to remain in the city's rights-of-way. (as added by Ord. #906, Feb. 2003)

16-210. Perpetual care. Any person, firm, corporation, public or private utility, association, or others affecting a public rights-of-way within the city, shall be responsible for any defects which occur to the public facility within the public rights-of-way due to workmanship or materials. The cost for repairs shall be the responsibility of the utility owners of the facility which was placed within the City of Athens rights-of-way. The city's public works department will be responsible for making the repairs or having the work contracted. The city may allow the utility to make the repair if requested to do so. Repairs shall be made in accordance with specifications furnished by the City of Athens or the city's engineering consultants. (as added by Ord. #906, Feb. 2003)

16-211. Inspection. It shall be the responsibility of any person, firm, corporation, public or private utility, association, or others to call the director of public works for an inspection of the permitted facility as required by the rights-of-way construction permit. The permit shall specify, based upon the size and scope of the permitted work, the type of inspection to be required. The cost of all inspections shall be borne by the owner of the permitted work whether the work is performed by the staff of the City of Athens or by a third party service. The permittee is to be bound by the rules and regulations as specified on the permit. (as added by Ord. #906, Feb. 2003)

16-212. Specifications. Each rights-of-way construction permit shall be assigned a set of restoration specification standards. These specifications will be referenced by number and so indicated on the permit. It shall be the responsibility of the city public works department to maintain and provide the specification standards. The permittee may request a copy as required. The cost of the specification shall be limited to reproduction cost and paid by the permittee. (as added by Ord. #906, Feb. 2003)

16-213. Insurance. In addition to making the deposit hereinbefore provided to be made, each person applying for a rights-of-way construction permit shall file a certificate of insurance or other suitable instrument 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 city manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury in effect shall not be in an amount less than the current limits found in the Tennessee Governmental Tort Liability Act (Tennessee Code Annotated, §§ 29-20-101 et.seq.) or \$250,000 for each person and \$600,000 for each accident and for property damages an amount not less than \$85,000, with an aggregate of \$685,000 for all accidents, whichever is greater. (as added by Ord. #906, Feb. 2003)

16-214. Indemnification. Each rights-of way occupant and permittee shall, at its sole cost and expense, indemnify, hold harmless, and defend the city, its elected and appointed officials, officers, boards, commissions, commissioners, agents, employees, and volunteers against any and all claims, suits, causes of action (whether frivolous or otherwise), proceedings, and judgments for damages or equitable relief arising out of the installation, construction, maintenance, or operation of facilities by the rights-of-way occupant or permittee; the conduct of the rights-of-way occupant's business in the city; or in any way arising out of the rights-of-way occupant's enjoyment or exercise of the privileges granted by the city or applicable law, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by the city, other applicable law, or the terms of any grant to occupy the rights-of-way.

Each rights-of-way occupant and permittee shall indemnify and hold harmless the city, and its elected and appointed officers, officials, boards, commissions, commissioners, employees, agents, and volunteers from and against any and all claims, demands, suits, or causes of action (whether frivolous or otherwise) of any kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees sustained by the city arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the rights-of-way occupant or permittee, or its agents, independent contractors, or employees related to or in any way arising out of the construction, operation or repair of the facilities in question.

The indemnity provision of this section includes, but is not limited to, the city's reasonable attorneys' fees incurred in defending against any such action, claim, suit (whether frivolous or otherwise), or proceeding, as well as the reasonable value of any services rendered by the city attorney, or city staff or employees.

Nothing in this chapter shall be construed to waive any immunity the city enjoys under applicable law, or the Tennessee Constitution.

Acceptance of the provisions of this section shall be a condition of all rights to occupy city rights-of-way or to obtain a rights-of-way construction permit. (as added by Ord. #906, Feb. 2003)

16-215. 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 city manager. (as added by Ord. #906, Feb. 2003)

16-216. Supervision. The city manager or his designee shall monitor all excavations and tunnels being made in or under any public street, curb, sidewalk, alley, or other public rights-of-way in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him before the work of refilling any such excavation or tunnel commences and said work may not commence until the inspector arrives at the site or gives verbal permission to proceed. (as added by Ord. #906, Feb. 2003)

16-217. Stop work order. If at any time that any person, firm, corporation, public or private utility, association, or others is making any cut or excavation in any street, curb, alley, or public rights-of-way, or is tunneling under any street, curb, alley, or public rights-of-way in the city and it is determined by the city manager or his designee that the work being performed is not in compliance with the city's regulations, state or federal regulations or recognized construction and/or safety practices, the city manager or his designee shall issue a stop work order and the person, firm, corporation, public or private utility, association, or others that is making the cut or excavation in any street, sidewalk, curb, alley, or public rights-of-way, or is tunneling under any street, sidewalk, curb, alley, or public rights-of-way shall cease work in the city's rights-of-way until corrective measures are taken and the city manager or his designee rescinds the stop work order. (as added by Ord. #906, Feb. 2003)

16-218. Facility relocation. A rights-of-way occupant shall, within three (3) months from the date of notification, at its own expense, permanently relocate, protect, or modify any part of its facility when required by the city by reason of traffic safety, public safety, road construction, change of street grade, installation of water, stormwater, or sanitary pipes, traffic signal devices, or any other types of city improvement projects. The city manager may recommend such actions in order to prevent interference by the rights-of-way occupant's facilities with: a present or future city use of the city's rights-of-way; or a capital improvement project funded and scheduled to be undertaken by the city; or an economic development project in which the city has an interest or investment. The city manager may also recommend such actions: when the public health, safety and welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the rights-of-way, both vehicular and pedestrian; or when aboveground equipment is located in such a manner as to create an obstruction to a driver's line of sight. The rights-of-way occupant

may for due cause make application to the public works director for an extension to complete such relocation as required by this section.

Failure by the rights-of-way occupant to relocate its facilities within the three (3) months from date of notification shall result in the rights-of-way occupant being assessed liquidated damages for each day of the delay. The daily amount of liquidated damages shall be determined by the liquidated damages contained in any construction contract(s) the city may have entered into in conjunction with infrastructure improvements that necessitate the need for the rights-of-way occupant to relocate its facilities. In those cases where the city is performing the infrastructure improvements with city forces, the amount of the daily liquidated damages shall be the average of the daily liquidated damages amounts found in all city contracts for the past two years commencing with the date of notification referenced above. If the rights-of-way occupant fails to pay the city for the liquidated damages as charged, the total amount of liquidated damages (daily amount x the number of days delayed) shall be attached to the cost of any future permit the rights-of-way owner may apply for to install, extend or improve their facilities within the city's rights-of-way and no permit shall be issued until the total costs are paid. (as added by Ord. #906, Feb. 2003)

16-219. 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. (as added by Ord. #906, Feb. 2003)

CHAPTER 3

STREET NAMES AND PROPERTY NUMBERS

SECTION

16-301. Street names.

16-302. Property numbers.

16-301. Street names. There is hereby established an official system of street names in the City of Athens as shown on a map of record in the city manager's office. The map is entitled "Street Map, Athens, Tennessee," and is dated April 1, 1962. It is incorporated herein and made a part of this section by reference.

The names of streets in the City of Athens shall remain as shown on said map unless officially changed by ordinance.

No new streets shall be accepted by the city nor any municipal improvements made therein until such streets have been named. When new streets are extensions of existing streets, the existing names shall be continued; if not extensions, they shall be given names which neither duplicate nor closely approximate street names already assigned. (1972 Code, § 12-301)

16-302. Property numbers. There is hereby established a uniform system of numbering properties and principal buildings in the City of Athens as shown on the map entitled "Property Numbering System, Athens, Tennessee," as administered by the city manager's office. The map is incorporated herein and made a part of this section by reference.

All properties or parcels of land within the corporate limits shall hereafter be identified by reference to the uniform numbering system adopted herein. All existing numbers of properties and buildings not in conformity with this uniform system shall be changed by the owner so as to conform forthwith.

Within zone 1, as shown on the map, a separate number shall be assigned for each twenty-five (25) feet of frontage.

Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number. The numerals shall be posted in such a manner as to be visible from the street on which the property is located and shall be not less than three (3) inches, measured from top to bottom. (1972 Code, § 12-302, modified)

CHAPTER 4

STREET POLICY

SECTION

- 16-401. Classification of streets.
- 16-402. Maintenance.
- 16-403. Originating improvements.
- 16-404. Financing improvements.
- 16-405. Specifications for construction.
- 16-406. Petitions.

16-401. Classification of streets. (1) The widths of "existing" and "proposed" streets shall from time to time be classified by the city council and the regional planning commission and shown on the City of Athens Street Map.

(2) "Existing" streets are only those streets which are shown as such on the Street Map. "Proposed" streets are contemplated streets through undeveloped property. Previous recording at the court house does not constitute an "existing" street. A street shall be opened only by resolution after prior approval of the planning commission. Building permits shall be issued only for property which abuts an "existing" street for 40 feet. (1972 Code, § 12-401)

16-402. Maintenance. The city shall maintain all "existing" streets in their present condition. A street ledger shall be maintained to list the condition of all "existing" streets and to note the addition of new streets as they are constructed. (1972 Code, § 12-402)

12-403. Originating improvements. (1) The city council may initiate abutting districts for any proposed or existing street within the corporate limits of the City of Athens. The city may also improve any street within the corporate limits of the city when it deems such improvement is in the best interests of the citizens and residents of said city.

(2) Other abutting districts may be initiated by the property owners or by developers by means of a subdivision in accordance with this title.

(3) Nothing in the street policy of the City of Athens as contained in this chapter shall be construed to limit and restrict the right of the City of Athens to initiate improvements by special assessment as provided by the Tennessee Code Annotated, § 7-32-101 and following, the same being the general state law governing street improvements by special assessment. (1972 Code, § 12-403)

16-404. Financing improvements. (1) Residential, commercial or industrial subdividers shall pay the entire cost of streets and improvements, except as qualified in (2) below.

(2) Abutment districts shall be financed 50% by property owners and 50% by the city, except as qualified by (4) below.

- (3) Conservation districts shall be financed entirely by the city.
- (4) In all cases the city shall pay the additional cost where the improvements required exceed the following limits:
 - (a) 36' wide street
 - (b) 8" diameter sanitary sewer
 - (c) Any size sanitary sewer which has not been connected to the city collection system within 6 months of the completion of the street.
 - (d) Storm sewers over 15" but not over 24" in diameter. (Where storm sewers larger than 24" in diameter are required, drainage swales may be installed outside the curb line.) (1972 Code, § 12-404)

16-405. Specifications for construction. (1) The city council shall determine the character and type of construction and materials to be used in the construction of council initiated street improvements and shall determine whether any or all of the work shall be done by contract or by city force account.

(2) All streets shall be first approved by the planning commission and shall be sized according to their classification. All streets shall meet the Subdivision Regulation Standards except for area accesses or council initiated improvements. Building permits shall not be issued for property abutting area accesses or driveways until said street is improved to meet Subdivision Regulation Standards. (1972 Code, § 12-405)

16-406. Petitions. (1) Abutment districts are available for residents on any "existing" street and may include streets, sidewalks, sanitary sewers and storm sewers.

(2) Conservation districts shall be determined by a Housing Analysis for Urban Renewal under the direction of the planning commission. Abutting property owners in conservation districts will be required to improve their houses or property as recommended by the housing analysis.

(3) All requests for improvements under the abutment district or the conservation district shall be made by petition to the city council on petition forms prepared and furnished by the City of Athens.

(4) Limitation of petitions. No petition will be considered unless the owners of 51% of the footage represented sign the petition. No petition shall be considered by the city council for the full proposed improvement of less than one block of a street except in case of storm sewers. A block is defined as that part of a street between two intersecting streets. Petitions for sidewalk improvement shall be separate from other improvements.

(5) Factors of considering petitions by the city council. The following factors shall be considered by the city council when considering each petition for street improvements:

- (a) Time of filing petition with city manager.

(b) Classification of street or streets proposed to be improved in the city street system.

(c) Percentage of development of lots on street or streets proposed to be improved.

(d) Estimated unit cost of the proposed improvement.

(6) Assessment and charges. Assessments shall be payable in cash, or if any property owner should so elect and give notice to the fact in writing to the City of Athens, such property owner shall have the option and privilege of paying the assessments in five equal installments, such installments to bear interest at the rate of 6% per annum from the date of the confirmation of the assessment roll. (1972 Code, § 12-406)

CHAPTER 5

SKATEBOARDING AND ROLLER SKATING

SECTION

16-501. Skateboarding, roller skating, roller blades and similar activities prohibited in certain designated areas.

16-502. Definitions.

16-503. Designation of private property as no skateboarding, roller skating, or roller blading area.

16-504. Posting of signs; required content.

16-505. Penalties.

16-506. Exemption from the provisions of this chapter.

16-501. Skateboarding, roller skating, roller blades and similar activities prohibited in certain designated areas. It shall be unlawful and subject to punishment in accordance with the provisions of this chapter, for any person utilizing or riding upon any skateboard, roller skates, roller blades, or a similar device to ride or move about upon such device in or on the public property defined hereafter, or private property when the private property has been designated by the owner by the procedure outlined in § 16-503 hereafter and posted as outlined in § 16-504 hereafter as a no skateboarding, roller skating, roller blading or similar activity area. (as added by Ord. #962, Nov. 2007, and amended by Ord. #976, Feb. 2009)

16-502. Definitions. For the purposes of this chapter, the following words shall have the meanings ascribed:

(1) "Private property" shall mean any property held by private interests, which is used primarily for business, commercial, office space, religious, multi-family or recreational purposes. This shall also include the parking facilities for these "private property" areas.

(2) "Public property" shall mean any property owned or maintained by the City of Athens within the downtown business district which is defined as that area upon and within the interior of the boundaries of Green Street, College Street, Hill Street and Park Street as shown on the map of the City of Athens attached hereto and incorporated herein by reference, including, but not limited to city streets and sidewalks. "Public property" shall also mean any property, wherever situated, owned or maintained by any public utility.

(3) "Roller skates" or "roller blades" shall mean any footwear or device which may be attached to the foot or footwear, to which wheels are attached, including wheels that are "inline" and where such wheels may be used to aid the wearer in moving or propulsion. Heelys are not included in the definition of roller skates or roller blades.

(4) "Skateboards" shall mean a board of any material which has wheels attached to it and which is propelled or moved by human, gravitational, or mechanical power. Skateboards shall include a board which has wheels attached to it and a device or mechanism to turn or control the wheels, such boards commonly referred to as "Razors." (as added by Ord. #962, Nov. 2007, and amended by Ord. #976, Feb. 2009)

16-503. Designation of private property as no skateboarding, roller skating, or roller blading area. (1) If the property is owner-occupied property, the owner shall submit a written application requesting a designation of a no skateboarding, roller-skating or roller blading.

(2) If the property is occupied by tenants of the owner, then the tenants may submit a written application with the exception that for multi-family property, two-thirds (2/3) of the tenants must sign supporting a designation of no skateboarding or roller skating, roller blading, and the application shall also contain the written consent of the property owner or his or her designated representative. (as added by Ord. #962, Nov. 2007)

16-504. Posting of signs required, content. Prior to the enforcement upon private property of the prohibition on skateboarding, roller-skating, or roller blading, or similar activity, the area so designated shall be posted with signs, which provide substantially as follows:

<p>Skateboarding, roller skating or similar activity is prohibited by, Title 16, Chapter 5, of the Athens Municipal Code. Any violation is punishable by a fine of up to \$50.00</p>
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Such prohibition shall apply to the property or area so designated once the property or area has been posted with signs in plain view at all vehicular entrances to the property or area or at prominent locations therein. Signs of appropriate size and wording will be provided to property owners upon approval of an application for a particular location to be designated as a no skateboarding, roller skating, or similar activity area. It shall be the responsibility of the property owner or tenant(s) to post signs in appropriate locations to be designated by the appropriate city officials and to maintain all signs thereafter. (as added by Ord. #962, Nov. 2007)

16-505. Penalties. Any violation of this chapter is deemed an infraction, punishable by a fine of up to fifty dollars (\$50.00). (as added by Ord. #962, Nov. 2007)

16-506. Exemption from the provisions for this chapter. Any device designated, intended, and used solely for the transportation of infants, the handicapped or incapacitated persons, devices designed, intended, and used for the transportation of merchandise to and from the place of purchase and other wheeled devices, when being used for either of these purposes shall be exempt from this chapter. Furthermore, the board of Athens City Council may, by resolution, suspend the enforcement provisions of this chapter to accommodate special events when so requested by the event organizer. (as added by Ord. #962, Nov. 2007)

CHAPTER 6

CLOSURE AND ABANDONMENT OF STREETS OR RIGHTS-OF-WAY

SECTION

16-601. Purpose.

16-602. Definitions.

16-603. Initiation of closure or closure and abandonment.

16-604. Requests for closure or closure and abandonment.

16-605. Fees for closure or closure and abandonment.

16-606. Submittals required with abandonment requests.

16-607. Departmental review required.

16-608. Athens Municipal/Regional Planning Commission review required.

16-609. Procedure for council approval.

16-610. Compensation for closure.

16-611. Compensation for abandonment.

16-601. Purpose. The purpose of this chapter is to establish procedures for the closure or closure and abandonment of streets and rights-of-way within the City of Athens. (as added by Ord. #996, June 2011)

16-602. Definitions. For the purposes of this chapter the following definitions shall apply:

(1) "Abandonment." The letting go of, or "vacating" of, public interest in a property. After a street or right-of-way is abandoned, the public no longer has a right to use the property for access.

(2) "Closure." The preventing of public vehicular use of a street or right-of-way. When a street or right-of-way is closed without abandonment public interest in the property is retained.

(3) "Right-of-way." The area dedicated for public use as a street or alley whether developed or undeveloped.

(4) "Street." Any public street or alley, including right-of-way, within the city. (as added by Ord. #996, June 2011)

16-603. Initiation of closure or closure and abandonment. There are two (2) alternatives for the initiation of the closure or closure and abandonment of a street right-of-way. First, the owners of an interest in any real property abutting upon any street or right-of-way may request that the council consider the closure or closure and abandonment of the street or right-of-way. Second, the council may itself initiate the closure or closure and abandonment of a street or right-of-way. (as added by Ord. #996, June 2011)

16-604. Requests for closure or closure and abandonment. All requests for the closure or closure and abandonment of streets or rights-of-way shall be submitted in writing to the community development department and shall include the reasons for such a request. The request shall include proof in the form of a signed petition, or other written documentation, that all other property owners affected by the proposed closure or closure and abandonment have been contacted and concur with the request. (as added by Ord. #996, June 2011)

16-605. Fees for closure or closure and abandonment. Every request for the closure of a street or right-of-way, or any part thereof, shall be accompanied by a nonrefundable fee in the amount of fifty dollars (\$50.00). If the request is also for the abandonment of a street or right-of-way, the nonrefundable fee shall be one hundred dollars (\$100.00). These fees shall be used to defray the administrative cost incurred in processing the petition and publishing, posting and mailing notices, plus any consulting costs incurred by the city during the review process. (as added by Ord. #996, June 2011)

16-606. Submittals required with abandonment requests. Every request for the abandonment of a street or right-of-way, or any part thereof, shall be accompanied by the following information:

- (1) Survey prepared by a registered land surveyor indicating the specific parcels abutting the street or right-of-way proposed for abandonment.
- (2) Exact legal description of the portion of the street or right-of-way proposed for abandonment prepared by a registered land surveyor. (as added by Ord. #996, June 2011)

16-607. Departmental review required. Upon receipt of a request for the closure or closure and abandonment of a street or right-of-way, or any part thereof, the community development department shall notify all applicable city departments, including fire, police, public works, water quality control, gas and electric departments. Comments shall be received from these departments prior to the community development department submitting the request to the Athens Municipal/Regional Planning Commission for review. (as added by Ord. #996, June 2011)

16-608. Athens Municipal/Regional Planning Commission review required. All proposals for the closure or closure and abandonment of a street or right-of-way, whether city initiated or initiated as a result of a petition, shall be reviewed by the Athens Municipal/Regional Planning Commission. The following procedure shall apply for Athens Municipal/Regional Planning Commission review of all proposals for the closure or closure and abandonment of a street or right-of-way:

(1) All owners of real property abutting a street or right-of-way proposed for closure or closure and abandonment shall be notified by the community development department in writing of the time and place at which the Athens Municipal/Regional Planning Commission will consider the matter.

(2) The community development department shall provide a recommendation for or against closure and/or abandonment and shall provide the comments from the applicable city departments.

(3) The Athens Municipal/Regional Planning Commission shall hold a public hearing prior to considering the matter for action.

(4) The recommendation of the Athens Municipal/Regional Planning Commission to the council shall be for the approval, approval with conditions, or disapproval of the closure or abandonment. (as added by Ord. #996, June 2011)

16-609. Procedure for council approval. The Council of the City of Athens may or may not approve the closure and/or abandonment of a street or right-of-way, or any part thereof, with such conditions or limitations as the council deems necessary and proper to preserve any public use or benefit. Council approval may contain a provision retaining or requiring conveyance of easements for construction, repair and maintenance of existing and future utilities and services. (as added by Ord. #996, June 2011)

16-610. Compensation for closure. Where a street closure has been initiated by request, the owners of property signing the petition shall pay to the city, prior to the effective date of the closure of the street, a sum equal to the cost of physical closure as required by the department of public works. If the street closure has been initiated by the city the payment of such sum shall not be required. Upon determination by the department of public works of the cost of physical closure of the street, the city manager or designee shall notify the representatives of the petitioners of the amount of required compensation. The payment shall be delivered to the city manager or designee who, upon receipt of payment, shall transmit it to the finance department for deposit in the city's general fund. (as added by Ord. #996, June 2011)

16-611. Compensation for abandonment. The following provisions shall apply for compensation to the city for the abandonment of a street or right-of-way, or any part thereof:

(1) Determination of payment amount. Where an abandonment has been initiated by request, the owners of the property abutting the area vacated shall pay to the city, prior to the effective date of the abandonment of the area, a sum equal to the appraised value of the area vacated plus the full cost of physical closure and street repairs as required by the department of public works. Where the abandonment has been initiated by the city the payment of such sum shall not be required.

(2) Conveyance of other property. Conveyance of other property acceptable to the city may be made in lieu of the required payment, whether required to mitigate the adverse impacts of the abandonment or otherwise.

(3) Appraisals. The city manager or designee shall determine the appraised value of the area vacated based on an appraisal from a state-certified real estate appraiser. The petitioner shall pay for the appraisal. If the city manager or designee is not satisfied with the appraisal, the city manager or designee may order a second appraisal from a state-certified appraiser. The city shall pay for the second appraisal. The city manager or designee shall use the appraisal having the highest value for the area vacated.

(4) Payment of compensation or conveyance. After determining the appraisal for the value of the street or alley to be vacated, the city manager or designee shall notify the representatives of the petitioners of the amount of required compensation. The payment shall be delivered to the city manager or designee who, upon receipt of payment, shall transmit it to the finance department for deposit in the city's general fund. If the petitioner has been authorized to deliver an instrument dedicating to the city a parcel or parcels of land in lieu of cash payment, as contemplated in § 16-611(2), the city manager or designee, at the petitioner's expense, may either obtain a policy of title insurance insuring title of the property to the city, or a certificate of title as to the title insurance insuring title of the property to the city. (as added by Ord. #996, June 2011)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. UNIFORM REFUSE DISPOSAL.

CHAPTER 1

UNIFORM REFUSE DISPOSAL

SECTION

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Accumulation and storage of refuse.
- 17-104. Containers (tote carts).
- 17-105. Refuse not to be collected unless properly stored.
- 17-106. Refuse from construction, demolition, or repairs.
- 17-107. Unlawful to burn.
- 17-108. Dumping in streams, sewers, and drains prohibited.
- 17-109. Disposal of refuse by city.
- 17-110. Disposal of refuse other than by city.
- 17-111. Collection practices.
- 17-112. Frequency of collection.
- 17-113. Refuse collection and/or disposal service charges.
- 17-114. Method of collecting service charges.
- 17-115. Disturbing containers.
- 17-116. Collections under supervision of city manager.
- 17-117. Collection vehicles.
- 17-118. Violations.

17-101. Definitions. (1) The term "garbage" shall mean all animal and vegetable wastes resulting from the handling, preparation, cooking, or consumption of foods.

(2) The term "refuse" shall mean all solid wastes, except body wastes, and shall include garbage, ashes, and rubbish (trash).

(3) The term "rubbish" shall include waste paper, tin cans, broken ware, discarded shoes and clothing, bottles, grass cuttings, or nonputrescible solid wastes. The term "rubbish" shall not include debris from construction or repair work, trees or tree trimmings, bricks or rocks, or any other waste that is

¹Municipal code reference

Property maintenance regulations: title 13.

likely to cause damage to the equipment of the city, injury to its employees, or is likely, because of the nature, size, or weight of the material, to cause undue hardship on the collector.

(4) The term "collector" shall mean any person, firm, or corporation that collects, transports, or disposes of any refuse within the corporate limits of the City of Athens.

(5) The term "ashes" shall include the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

(6) The term "person" shall include any natural person, association, partnership, firm, or corporation.

(7) The singular shall include the plural; the masculine shall include the feminine and the neuter. (1972 Code, § 8-101)

17-102. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the City of Athens are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, offal, fifth, and trash. Such persons, firms, and corporations are hereby required to store such refuse in sanitary containers of the type described in § 17-104 of this code between intervals of collection or to dispose of such material in a manner prescribed by the city manager, the city health officer or the supervisor of the city sanitation department so as not to cause a nuisance or become injurious to the public health and welfare. (1972 Code, § 8-102)

17-103. Accumulation and storage of refuse. (1) Each owner, occupant, tenant, subtenant, lessee, or others using or occupying any building, house, structure, or grounds within the corporate limits of the City of Athens where refuse materials and substances, as defined in this chapter, accumulate or are likely to accumulate, shall provide an adequate number of approved containers for the storage of such refuse except business and industrial establishments using city-owned receptacles as described in § 17-104, paragraph three (3).

(2) All refuse shall be drained free of liquids before disposal.

(3) "Garbage" (including animal waste) shall be wrapped in paper or similar material.

(4) All cans, bottles, or other food containers shall be free of food particles and drained before disposal.

(5) "Rubbish" shall be (1) placed in approved containers, or (2) cut and baled, tied, bundled, stacked, or packaged so as not to exceed thirty-six inches (36") in length and fifty (50) pounds in weight.

(6) "Leaves" shall be collected on a nonscheduled basis without additional charge to the regular refuse collection fees. Leaves must be placed in windrows adjacent to the curb or the street right of way. In no case may windrows of leaves be extended more than six (6) feet back from the curb line or street right of way.

(7) "Ashes" that have been exposed to the weather and are completely free of fire or smoke may be placed in regular containers. "Hot" ashes that may result in damage to refuse packers, containers, or may result in injury to the collectors shall not be placed in containers. (1972 Code, § 8-103)

17-104. Containers (tote carts). (1) Residential refuse containers (tote carts) shall be issued by the City of Athens for use in the city's automated collection system at each residence where refuse and rubbish is generated and refuse and rubbish collection normally occurs. The City of Athens will not pick up garbage in privately owned containers or tote carts. Refuse containers shall likewise be issued by the City of Athens to certain business establishments. These containers are owned by and will be replaced by the City of Athens if they become damaged due to normal wear and tear. When the user associated with a collection site, whether a residence or business, relocates from the collection site, the refuse container shall be returned to public works as the container is not the property of the owner of a residence or business to which the container was assigned. Each refuse container shall be equipped with tight fitting lids or covers to preclude the free access of flies and insects and to prevent the containers from collecting water during rain or snow events. The lids or covers shall be kept in place at all times except when refuse is being deposited therein or removed therefrom by the collector.

(2) Refuse containers shall be maintained in good order and repair. They shall be placed in the location shown by the City of Athens and failure to place it in the right place, obstructing the container by placing it too close to an object, not bagging garbage placed in the container, over loading the container, or placing improper materials in the container shall be reason for the container to be passed up for that week.

(3) Business and industrial establishments shall deposit, in city-owned refuse receptacles provided for multiple use, all refuse from their establishments in the receptacle assigned to them. They shall break down or nest all cardboard boxes prior to depositing them in the receptacles. Business and industrial establishments utilizing the city-owned receptacles are exempt from the requirements in § 17-104, paragraph one (1).

(4) Business and industrial establishments not served by a city-owned dumpster shall be provided with city owned tote cart sufficient in number of containers to fully contain all refuse accumulated between collection periods. They will be limited to three (3) containers and any user which would generate more garbage than the three (3) tote carts will hold will be required to use dumpster services.

(5) Refuse containers must be located outside of buildings. They shall be placed where they will not become a traffic or fire hazard and will be accessible to city sanitation employees.

(6) The user at each collection site shall place the refuse containers or other solid waste adjacent to the street; curb side, side walk and/or alley. City

issued waste containers, including refuse containers (tote carts) shall not be placed adjacent to the street, curb side, side walk and/or alley for more than twenty-four (24) hours prior to any regularly scheduled collection or for more than twenty-four (24) hours after collection occurs, to inhibit and prevent theft and vandalism of the city-owned containers and to keep city streets, curb sides, sidewalks and/or alleys free from obstacles. If a city issued and owned container is vandalized or stolen, the assigned user at the collection site must file a police report within forty-eight (48) hours of the theft or vandalism. Provided the theft or vandalism is reported within forty-eight (48) hours thereof, and the theft or vandalism occurred during the time the container is permitted to be located at the street, curb side, sidewalk, and/or alley for collection, the container will be replaced by the City of Athens through its public works department. It shall be the responsibility of the user at the collection site to provide the public works department with a copy of the police report. In the event it is determined that the theft or vandalism occurred due to the user not removing the refuse container from the street, curb side, sidewalk, and/or alley within twenty-four (24) hours of collection, the resident will be responsible for the costs to replace the container for failure to timely remove the container from the street, curb side, sidewalk and/or alley. (1972 Code, § 8-104, as amended by Ord. #905, Dec. 2002, and replaced by Ord. #982, Feb. 2010)

17-105. Refuse not to be collected unless properly stored. In no case will it be the responsibility of the city sanitation department to shovel or pick up from the ground any accumulation of refuse, including leaves, lawn clippings, brush, packing material, etc., except as prescribed in § 17-103(5). (1972 Code, § 8-105)

17-106. Refuse from construction, demolition, or repairs. In no case will it be the responsibility of the city sanitation department to collect refuse resulting from construction, demolition, or repairs of buildings, structures, or appurtenances. The property owner/contractor, or the person having same in charge, shall be responsible for the disposal of such refuse. (1972 Code, § 8-106)

17-107. Unlawful to burn. It shall be unlawful for any person, firm, or corporation to burn refuse on private or public property within the corporate limits of the City of Athens without first obtaining a permit from the fire department. (1972 Code, § 8-107)

17-108. Dumping in streams, sewers, and drains prohibited. It shall be unlawful for any person, firm, or corporation to dump refuse in any form into a stream, ditch, storm sewer, sanitary sewer, or other drain within the corporate limits of the City of Athens. (1972 Code, § 8-108)

17-109. Disposal of refuse by city. All refuse accumulated in the City of Athens shall be collected, conveyed, and disposed of by the city's sanitation department. No person shall convey over any of the streets or alleys of the city, or dispose of any refuse accumulated in the City of Athens, except as noted in § 17-110. All refuse shall be disposed of in the city at the city's sanitary land fill or other sites approved by the city. (1972 Code, § 8-109)

17-110. Disposal of refuse other than by city. Actual producers of refuse, including residential, commercial, and business establishments, or the owners of premises upon which refuse has accumulated, may convey and dispose of such refuse provided they agree to comply with the requirements of the city code concerning contractors, etc., and the point of disposal, and apply for a permit granting them the right to collect, convey, and dispose of the refuse. Applicants for this type of private disposal permit will not be exempt from paying the minimum disposal charges as provided in § 17-113 of this code. (1972 Code, § 8-110)

17-111. Collection practices. (1) Residential points of collection.

(a) Refuse containers shall be placed for collection at ground level on the property at the curb line where collection is made unless the subscriber has made arrangements to place the refuse container at another point and has so advised the city sanitation department of the location.

(b) Persons served by an alley abutting the property of the person shall place refuse containers as near as possible to the alley line but not more than five (5) feet from the alley line on the day of collection service.

(c) Persons with unpaved or graveled driveways not capable of accommodating a refuse vehicle shall place refuse containers as near as possible to the street right-of-way or curb line on the day of collections.

(d) The City of Athens will not be responsible for driveways, shrubbery, down spouts, lawns, etc., damaged while in the process of entering the premises for the purpose of collecting refuse. It shall be deemed lawful to enter the premises for the purpose of removing refuse unless the person being serviced objects to the collection equipment entering the premises and advises the city sanitation department in writing of the objection.

(2) Commercial or business points of collection. (a) Placement of containers other than city-owned receptacles shall comply with § 17-104 of the city code.

(b) Commercial or business firms disposing of refuse under the provisions of § 17-110 may be permitted to place containers at places upon their premises by agreement of the contractual party or to suit the

needs of the person responsible for the removal of refuse. (1972 Code, § 8-112)

17-112. Frequency of collection. (1) Refuse collection shall be made in the residential districts on regular scheduled routes so as to provide one (1) collection per week for each residence subscriber.

(2) Refuse collection shall be made in commercial or business areas as frequently as needed to prevent the occurrence of nuisances and public health problems in the City of Athens. (1972 Code, § 8-113)

17-113. Refuse collection and/or disposal service charges.

(1) Institutional, professional, industrial, fraternal, commercial or business establishments operated within the City of Athens shall pay a minimum monthly fee as determined by city council and adopted through its annual budget, plus an additional amount for receipt of services as determined by the department of sanitation. However, businesses operating out of their residences or vehicles may be eligible for a credit of one hundred percent (100%) for the service as determined by the supervisor of the city's sanitation department.

(2) All residences within the City of Athens shall pay a minimum monthly fee for residential refuse service as determined by city council and adopted through its annual budget. Those residents needing more than one (1) container as determined by the city will pay the minimum rate set by the city council plus additional charges based on the number of additional containers and shall not be eligible for tax relief services. However, those citizens who qualify for property tax relief and citizens who would otherwise qualify for property tax relief but do not own their residences, and who use only one (1) city issued container will be eligible for a credit of one hundred percent (100%) for the service.

(3) The city council may establish service boundaries limiting the daily refuse pickup service to customers within the boundaries. Proper notice may be given to customers outside the boundaries by publishing a map in a local newspaper on three (3) successive days in sufficient notice that the service cannot be provided on a daily basis. (1972 Code, § 8-114, as amended by Ord. #777, June 1993, Ord. #805, June 1995, Ord. #917, April 2004, and replaced by Ord. #982, Feb. 2010)

17-114. Method of collecting service charges. (1) Institutional, professional, industrial, fraternal, or commercial service charges shall be billed through procedures prescribed by the city manager. A penalty of five percent (5%) per month on the unpaid balance shall be imposed and collected on all delinquent refuse accounts.

(2) Commercial, industrial, institutional, professional, fraternal, and business establishments and contractors (including demolition waste) electing

to utilize a privately licensed waste hauler must provide evidence of a paid invoice on a quarterly basis to the City Sanitation Foreman for the minimum billing to be waived. If proper evidence is not provided, minimum billing along with any penalties are due to the city.

(a) The City of Athens may elect to deny waste collection to commercial, industrial, institutional, professional, fraternal, and business establishments and contractors (including demolition wastes) due to waste being hazardous, causing damage to city equipment or inadequate equipment to properly handle the waste.

(3) All institutional, professional, industrial, fraternal, commercial, and business establishments and contractors requiring special handling or special rates due to unusual situations that prevent the charges from being placed on the utility statement will be billed and collected by the director of finance. (1972 Code, § 8-115, modified, as amended by Ord. #805, June 1995, and Ord. #917, April 2004)

17-115. 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. (1972 Code, § 8-116)

17-116. Collection under supervision of city manager. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the city manager shall designate. Collections shall be made regularly in accordance with an announced schedule.

Quantities of tree limbs and debris, etc., equivalent to a full trailer load (20 cu. yd.) or more shall be deposited for collection only after approval and direction of the city manager or his designee. For this extra disposal service, the applicant shall pay thirty dollars (\$30.00) per trailer load or fraction thereof. (1972 Code, § 8-117, as amended by Ord. #917, April 2004)

17-117. 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. (1972 Code, § 8-118)

17-118. Violations. Any person, firm, or corporation who shall violate any of the provisions of this chapter or who fail or refuse to obey any notice or order issued by the health officer or the supervisor of the city sanitation

department with reference to the storage, accumulation, or disposal of refuse as set forth in this chapter shall be guilty of a misdemeanor.

Any person, firm or corporation that uses the facilities and does not comply with § 17-114 and/or pay for the use of the storage containers provided by the city to the various institutional, professional, industrial, fraternal, commercial or business establishments shall be guilty of a civil offense. (1972 Code, § 8-119, as amended by Ord. #794, July 1994)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WASTE DISPOSAL AND PRIVATE SEWER REGULATIONS.
2. GENERAL WASTEWATER REGULATIONS.
3. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
4. WATER.
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WASTE DISPOSAL AND PRIVATE SEWER REGULATIONS²

SECTION

- 18-101. Purpose and policy.
- 18-102. Administrative
- 18-103. Definitions.
- 18-104. Proper waste disposal required.
- 18-105. Private domestic wastewater disposal.
- 18-106. Connection to public sewers.
- 18-107--18-118. [Deleted.]

18-101. Purpose and policy. This chapter sets forth uniform requirements for users of the City of Athens, 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 prevent the introduction of pollutants into the municipal wastewater treatment facility which will interfere with the system's operation;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;

¹Municipal code references

Building, utility and housing codes: title 12.
Refuse disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city and municipal wastewater treatment facility to comply with National Pollution Discharge Elimination System (NPDES) Permit conditions, sludge and biosolids use and disposal requirements, and any other federal or state industrial pretreatment rules to which the city and facility is subject.

In meeting these objectives, this chapter provides that all persons in the City of Athens 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.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, through the Athens Utilities Board, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 2 provides for the regulation of the wastewater system by the Athens Utilities Board. Chapter 3 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; and establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. (1972 Code, § 13-101, modified, as replaced by Ord. #972, Nov. 2008)

18-102. Administrative. Except as otherwise provided herein, the City of Athens shall administer, implement, and enforce the provisions of this chapter. (1972 Code, § 13-102, modified, as replaced by Ord. #972, Nov. 2008)

18-103. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

- (1) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.
- (2) "Administrator." The Administrator of the United States Environmental Protection Agency.
- (3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.
- (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 paragraphs (a) – (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) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-109 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "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 (20°) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The national categorical pretreatment standards or pretreatment standard as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City." The City Council, City of Athens, Tennessee.

(10) "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.

(11) "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 NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "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.

(13) "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.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city, through the Athens Utilities Board, under either an express or implied contract requiring payment to the Athens Utilities Board for such service.

(16) "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.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "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.

(20) "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.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. (gallons per minute) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. § 1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(31) "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.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The general manager of the Athens Utilities Board (AUB) or his duly authorized representative.

(34) "Local hearing authority." The Athens Utilities five (5) member governing board or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-205.

(35) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(36) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) System.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings,

structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(38) "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.

(39) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "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.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "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).

(44) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number (63), below.

(49) "Shall" is mandatory; "May" is permissive.

(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(51) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8. (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under section 305(1)(b)(i)(D), Emergency Order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(52) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(53) "Standard industrial classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) "State." The State of Tennessee.

(55) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes.

(56) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "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.

(58) "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.

(59) "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.

(60) "Twenty four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(61) "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.

(62) "Wastewater." The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(63) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(64) "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.

(65) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1972 Code, § 13-103, modified, as replaced by Ord. #972, Nov. 2008)

18-104. Proper 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 or animal 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 ordinance 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 (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 after date of official notice to do so, connect to the public sewer. Service is considered "available" when the Athens Utilities Board (AUB) can reasonably provide such. If line extensions are required, they will conform to AUB's current policies and procedures.

(5) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-105 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. (1972 Code, § 13-104, modified, as replaced by Ord. #972, Nov. 2008)

18-105. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-104(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, sewer use charges may be billed by the Athens Utilities Board and the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(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 McMinn County Health Department. The application for such approval shall be made on a form furnished by the McMinn 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 McMinn 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 and the McMinn County Health Department. (1972 Code, § 13-105, modified, as replaced by Ord. #972, Nov. 2008)

18-106. Connection to public sewers. (1) (a) 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.

(b) 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.

(c) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested to meet all requirements of this chapter. All others may be sealed to the specifications of the city.

(d) Building sewers shall conform to the following requirements:

(i) the minimum size of a building sewer shall be as follows: conventional sewer system – four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: four inch (4") sewers – one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2.0') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) 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.

(vii) Connections of building sewers to the public sewer system shall be made only by Athens Utilities Board in accordance with established policies and procedures.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-204 and discharged to the building sewer at the expense of the owner.

(ix) 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 city before installation.

(x) An installed building sewer shall be gastight and watertight.

(e) 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

shall not be disturbed without prior approval of the city and all public property disturbed in the course of work shall be restored in a manner satisfactory to the city.

(f) 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.

(g) Inspection of connections.

(i) All building sewers from the building to the public sewer main line shall be inspected by the city before the underground portion is covered by the contractor or owner.

(ii) The applicant for discharge shall notify the city when the building sewer is ready for inspection.

(2) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow storm water or ground water to enter the sanitary sewer may face enforcement action by the Athens Utilities Board up to and including discontinuation of water and sewer service.

(3) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow the established policies and procedures developed by the Athens Utilities Board. (1972 Code, § 13-106, as replaced by Ord. #972, Nov. 2008)

18-107. [Deleted.] (as deleted by Ord. #972, Nov. 2008)

18-108. [Deleted.] (as deleted by Ord. #972, Nov. 2008)

18-109. [Deleted.] (1972 Code, § 13-109, modified, as deleted by Ord. #972, Nov. 2008)

18-110. [Deleted.] (1972 Code, § 13-110, modified, as deleted by Ord. #972, Nov. 2008)

18-111. [Deleted.] (1972 Code, § 13-111, modified, as deleted by Ord. #972, Nov. 2008)

18-112. [Deleted.] (1972 Code, § 13-112, modified, as deleted by Ord. #972, Nov. 2008)

18-113. [Deleted.] (as deleted by Ord. #972, Nov. 2008)

18-114. [Deleted.] (as deleted by Ord. #972, Nov. 2008)

18-115. [Deleted.] (1972 Code, § 13-115, as deleted by Ord. #972, Nov. 2008)

18-116. [Deleted.] (1972 Code, § 13-116, as deleted by Ord. #972, Nov. 2008)

18-117. [Deleted.] (as deleted by Ord. #972, Nov. 2008)

18-118. [Deleted.] (1972 Code, § 13-120, modified, as deleted by Ord. #972, Nov. 2008)

CHAPTER 2

GENERAL WASTEWATER REGULATIONS

SECTION

18-201. Purpose and policy.

18-202. Administrative

18-203. Connection to public sewers.

18-204. Septic tank effluent pump or grinder pump wastewater systems.

18-205. Regulation of holding tank waste disposal or trucked in waste.

18-206. Discharge regulations.

18-207. Enforcement and abatement.

18-201. Purpose and policy. This chapter sets forth uniform requirements for users of the Athens Utilities Board (AUB) wastewater treatment system and enables AUB 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 prevent the introduction of pollutants into AUB's wastewater treatment facility which will interfere with the system's operation;
- (3) To prevent the introduction of pollutants into AUB's wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable AUB to comply with National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolids use and disposal requirements, and any other federal or state industrial pretreatment rules to which the facility is subject.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with AUB, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 2 provides for the regulation of the wastewater system by the Athens Utilities Board. Chapter 3 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; and establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. (as added by Ord. #972, Nov. 2008)

18-202. Administrative. Through the ordinance creating this chapter, the City of Athens delegates the implementation and enforcement of chapters 2 and 3 to the Athens Utilities Board. (as added by Ord. #972, Nov. 2008)

18-203. Connection to public sewers. (1) Application for service. The owner or his agent shall make application for connection on a special form furnished by the Athens Utilities Board. 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 ordinance. Service connection fees for establishing new sewer service are paid to the Athens Utilities Board, and service connections shall conform to Athens Utilities Board's established policies and procedures.

Users shall notify the Athens Utilities Board 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 Athens Utilities Board may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) 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 the ordinance creating this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of the ordinance creating 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.

(3) Physical connection to public sewer. No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof, without approval from the Athens Utilities Board. Connections will be made in accordance with Athens Utilities Board's established policies and procedures.

(4) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow the established policies and procedures developed by the Athens Utilities Board. (as added by Ord. #972, Nov. 2008)

18-204. Septic tank effluent pump or grinder pump wastewater systems. Where necessary, due to elevations, proximity of the existing gravity sewer, etc.,

grinder pump installation will follow Athens Utilities Board's established policies and procedures. (as added by Ord. #972, Nov. 2008)

18-205. Regulation of holding tank waste disposal or trucked in waste. No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains written approval from the Athens Utilities Board to perform such acts or services. Approval and acceptance of holding tank or hauled waste will be done in accordance with Athens Utilities Board's established policies and procedures. (as added by Ord. #972, Nov. 2008)

18-206. Discharge regulations. (1) General prohibitions. No person or user shall introduce or cause to be introduced into the WWF any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all persons and users of the WWF whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of § 18-207. No person or user shall introduce or cause to be introduced into the WWF the following pollutants, substances, or wastewater:

(a) Pollutants which create, or could create a fire or explosive hazard in the WWF, including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty degrees (140°) Fahrenheit (sixty degrees (60°) Celsius) using the test methods specified in 40 CFR 261.21;

(b) Wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the WWF or equipment. Prohibited materials include, but are not limited to, acids, sulfides, concentrated chloride and fluoride compounds and substances which will react to form acidic products;

(c) Solid or viscous substances in amounts which will or may cause obstruction of the flow in the WWF or other interference. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, weeds, plastic, tar, asphalt residues, residues from refining or processing fuel or lubricating oil, and similar substances;

(d) Pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration

which, either singly or by interaction with other pollutants, will cause interference with the WWF;

(e) Wastewater having a temperature greater than one hundred fifty degrees (150°) F (sixty-five and one-half (65.5°) degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees (104°) F (forty degrees (40°) C);

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems;

(h) Trucked or hauled pollutants, except at discharge points designated by the control authority in accordance with § 18-205 of this chapter;

(i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent;

(k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations and which will or may cause damage or hazards to the sewerage facilities or personnel operating the system;

(l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the superintendent;

(m) Wastewater at a flow rate which is excessive relative to the capacity of the treatment works and which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewater containing such concentrations of pollutants that their introduction into the treatment works over a relatively short time period (i.e. slug discharges) would cause a treatment process upset and subsequent loss of treatment efficiency.

(n) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(o) Detergents, surface active agents, or other substances which that might cause excessive foaming in the WWF;

(p) Wastewater causing two (2) successive readings on an explosion hazard meter at the point of discharge into the WWF, or at any point in the WWF, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter. Liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient to cause fire or explosion or be injurious in any other way to the sewage facilities or operation of the system. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(q) Any wastewater containing toxic pollutants 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 or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(r) Any waste containing microbiological organisms, including filamentous bacteria, in such quantity that will interfere with the normal operation of the WWF.

(s) Any waste that, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WWF.

(t) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards, or cause any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapters 2 and 3 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater containing pollutant levels that exceed the plant protection criteria listed in the Athens Utilities Board's established policies and procedures, unless specifically allowed by their discharge permit according to chapters 2 and 3 of this title. Dilution of any wastewater discharge for the

purpose of satisfying these requirements shall be considered in violation of this chapter.

(4) Fats, oils and grease traps and interceptors. (a) Grease, oil, and sand interceptors, or grease traps shall be provided within ninety (90) days of notification when, in the opinion of the superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units or traps shall be of a type and capacity approved by AUB, shall comply with AUB's Fats, Oil, and Grease (FOG) control policy, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with AUB's FOG control policy by the user at their expense. Failure to maintain any grease control device in accordance with AUB's FOG control policy shall constitute a violation of this chapter. If AUB is required to clean out, repair, or replace a sewer line as a result of a stoppage due to, in part or in whole, a user's failure to install or properly maintain a grease control device, then the user shall be required to pay the costs of labor and materials required to clean out, replace, or repair the sewer line.

(b) 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 WWF is prohibited.

(c) The superintendent may use industrial wastewater discharge permits under § 18-302 to regulate the discharge of fat, oil and grease. (as added by Ord. #972, Nov. 2008, and replaced by Ord. #985, March 2010)

18-207. Enforcement and abatement. 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 AUB may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 3. 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. AUB may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) 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 discontinue water service or disconnect sewer service.

(3) 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.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (as added by Ord. #972, Nov. 2008)

18-208. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of AUB's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in AUB's schedule of rates and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Waste hauler permit;
- (f) Wastewater discharge permit fees;
- (g) Fees for discharge monitoring; and
- (h) Other fees as AUB may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-302.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a sewer installation shall be paid to AUB's wastewater division at the time the application is filed.

(5) Sewer user charges. The five (5) member board of AUB shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Wastewater discharge permit fees. A fee may be charged for the issuance of a wastewater discharge fee in accordance with § 18-307.

(7) Fees for discharge monitoring. Fees may be collected from users having pretreatment or other discharge requirements to compensate AUB for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued in an amount up to ten thousand dollars (\$10,000.00). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted. (as added by Ord. #972, Nov. 2008)

CHAPTER 3

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

- 18-301. Industrial pretreatment.
- 18-302. Discharge permits.
- 18-303. Industrial user additional requirements.
- 18-304. Reporting requirements.
- 18-305. Enforcement response plan.
- 18-306. Enforcement response guide table.
- 18-307. Fees and billing.
- 18-308. Validity.

18-301. Industrial pretreatment. In order to comply with federal industrial pretreatment rules 40 CFR 403 and Tennessee pretreatment rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-206.

(2) Users wishing to discharge pollutants at higher concentrations than plant protection criteria contained in Athens Utilities Board's (AUB's) established policies and procedures, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in AUB's approved enforcement response plan.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of this ordinance. Local limits are listed in AUB's established policies and procedures.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges, which are outlined in AUB's established policies and procedures and/or schedule of rates and fees and/or the users applicable discharge permit. Maximum concentrations may also be established for some users.

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in the plant protection criteria, which are listed in AUB's established policies and procedures. In the event that the influent at the WWF reaches or exceeds the levels established by plant protection criteria or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the superintendent the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (as added by Ord. #972, Nov. 2008)

18-302. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to AUB's wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, and the building sewer is installed in accordance with § 18-106.

The receipt by AUB of a prospective customer's application for connection shall not obligate AUB to render the connection. If the service applied for

cannot be supplied in accordance with this chapter and AUB's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of AUB to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of AUB and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-206 and 18-301 discharge variations – daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion

date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) AUB will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, AUB may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by AUB of a prospective customer's application for wastewater discharge permit shall not obligate AUB to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or AUB's policies and procedures and general practice, the application shall be rejected and there shall be no liability of AUB to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be required to correct the deficiency. If the deficiency is not corrected within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by AUB.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws.

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the

requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the user's processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges, surcharges, and fees for the wastewater to be discharged to the WWF;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by AUB, and affording AUB access thereto;

(F) Requirements for notification of AUB sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by AUB to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of AUB. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or AUB's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (as added by Ord. #972, Nov. 2008)

18-303. Industrial user additional requirements. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right of way with the approval of the public agency having jurisdiction of that right of way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. AUB 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. Persons or occupants of premises where wastewater is created or discharged shall allow AUB or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. AUB, the approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. AUB will utilize qualified personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from AUB, the approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of AUB shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to AUB employees and AUB shall indemnify the company against loss or damage to its property by AUB employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator or the chief operator of AUB's wastewater treatment facilities in person, or by the telephone to enable countermeasures to be taken to minimize damage to the WWF, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (as added by Ord. #972, Nov. 2008, and replaced by Ord. #985, March 2010)

18-304. Reporting requirements. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-306.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards.

A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources;

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process;

(C) Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported;

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard;

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph;

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards;

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods;

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-304(2).

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-304(14) and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-304(1)(d):

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule;

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in §§ 18-304(1)(b)(iv) and (v). For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this ordinance.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-302.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-302 or modify an existing wastewater discharge permit under § 18-302 in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling

performed by a user indicates a violation, the user must notify the superintendent within twenty four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if AUB performs sampling at the user's facility at least once a month, or if AUB performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if AUB has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Section 18-206(1)(s) prohibits the disposal of "any waste that, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261."

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in sections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the superintendent. Where time proportional composite sampling or grab sampling is authorized by AUB, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by AUB as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under this chapter. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (as added by Ord. #972, Nov. 2008, and replaced by Ord. #985, March 2010)

18-305. Enforcement response plan. Under the authority of Tennessee Code Annotated, § 69-3-123, et seq.

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Athens Utilities Board's Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-305(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, AUB or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of AUB to take any action, including emergency

actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by AUB in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer 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 local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subdivision (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair 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 McMinn County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes 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 under § 18-305(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user

that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is 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:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within

thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency 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;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). 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.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to AUB resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-302(2)(g), users are subject to termination of their wastewater discharge for violations of wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-206.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance: For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its

emergency authority under § 18-305(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

Any significant non-compliance violations will be responded to according to AUB's enforcement response plan.

(9) Public notice of significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (c), (d) or (g) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the

superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance; or

(g) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #972, Nov. 2008)

18-306. Enforcement response guide table. (1) Purpose. AUB's enforcement response plan is to provide for the consistent and equitable enforcement of the provisions of this chapter. The plan includes a table to guide AUB when imposing sanctions or penalties for the violation of this chapter. (as added by Ord. #972, Nov. 2008)

18-307. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of AUB's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in AUB's schedule of rates and fees may include but are not limited to:

(a) Inspection fee and tapping fee;

(b) Fees for applications for discharge;

(c) Sewer use charges;

(d) Surcharge fees;

(e) Waste hauler permit;

(f) Wastewater discharge permit fees;

(g) Fees for discharge monitoring; and

(h) Other fees as AUB may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-302.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a sewer installation shall be paid to AUB's wastewater division at the time the application is filed.

(5) Sewer user charges. The five (5) member board of AUB shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Wastewater discharge permit fees. A fee may be charged for the issuance of a wastewater discharge fee in accordance with § 18-307.

(7) Fees for discharge monitoring. Fees may be collected from users having pretreatment or other discharge requirements to compensate AUB for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued in an amount up to ten thousand dollars (\$10,000.00). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted. (as added by Ord. #972, Nov. 2008)

18-308. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of AUB. (as added by Ord. #972, Nov. 2008)

CHAPTER 4

WATER¹

SECTION

18-401. Under control of Athens Utilities Board.

18-401. Under control of Athens Utilities Board. Municipal water service shall be furnished to applicants therefor in accordance with such rules and regulations as the Athens Utilities Board² shall prescribe. (1972 Code, § 13-201, as renumbered by Ord. #972, Nov. 2008)

¹Municipal code reference
Plumbing code: title 12.

²Charter reference
Athens Utilities Board: art. XXI.

CHAPTER 5

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

18-501. Definitions.

18-502. Construction, operation, and supervision.

18-503. Statement required.

18-504. Violations.

18-501. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross-connection." Any physical arrangement whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back pressure valves, or because of any other arrangement.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which normally contains sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(6) "Public water supply." The waterworks system furnishing water to the municipality for general use and which supply is recognized as the public water supply by the Tennessee Department of Health. (1972 Code, § 8-301, as renumbered by Ord. #972, Nov. 2008)

18-502. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

Tennessee Department of Health, and the operation of such cross-connection, auxiliary intake, by-pass or interconnection is at all times under the direct supervision of the superintendent of the waterworks of this municipality. (1972 Code, § 8-302, as renumbered by Ord. #972, Nov. 2008)

18-503. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in an uncovered or insanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the waterworks, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Health, and the operation and maintenance of same have been placed under the direct supervision of the superintendent of the waterworks. (1972 Code, § 8-303, as renumbered by Ord. #972, Nov. 2008)

18-504. Violations. Any person who now has cross-connections, auxiliary intakes, by-passes or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with such provisions. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time to be allowed shall be designated by the superintendent of the waterworks. In addition to, or in lieu of any fines and penalties that may be judicially assessed for violations of this chapter, the superintendent of the waterworks shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or interconnection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or interconnection has been discontinued. (1972 Code, § 8-304, as renumbered by Ord. #972, Nov. 2008)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. Under control of Athens Utilities Board.

19-101. Under control of Athens Utilities Board. Municipal electric service shall be furnished to applicants therefor in accordance with such rules and regulations as the Athens Utilities Board² shall prescribe. (1972 Code, § 13-401)

¹Municipal code reference
Electrical code: title 12.

²Charter reference
Athens Utilities Board: art. XXI.

CHAPTER 2

GAS¹

SECTION

19-201. Under control of Athens Utilities Board.

19-201. Under control of Athens Utilities Board. Municipal gas service shall be furnished to applicants therefor in accordance with such rules and regulations as the Athens Utilities Board² shall prescribe. (1972 Code, § 13-301)

¹Municipal code reference
Gas code: title 12.

²Charter reference
Athens Utilities Board: art. XXI.

TITLE 20

MISCELLANEOUS

CHAPTER

1. CITY CEMETERIES.
2. DEPARTMENT OF RECREATION AND PARKS DEVELOPMENT.
3. PARKS AND RECREATION FACILITIES.
4. CIVIL EMERGENCIES.
5. TREE AND SHRUB POLICY.
6. FAIR HOUSING.

CHAPTER 1

CITY CEMETERIES

SECTION

- 20-101. Transfer of lots.
- 20-102. Price of lots.
- 20-103. Grave markers and monuments.
- 20-104. Fences or walls.
- 20-105. Shrubbery, plants, flowers, trees, or growth.
- 20-106. Depths and boundaries of graves.
- 20-107. Responsibility of mortuary.
- 20-108. Identification of lots and/or grave sites.
- 20-109. Compliance with chapter.
- 20-110. Uses.
- 20-111. Producers and retail dealers of monumental materials.
- 20-112. Administration and management.
- 20-113. Irrevocable trust agreement authorized.

20-101. Transfer of lots. In order that the city may at all times have a permanent record of the ownership of all city cemetery lots, it shall be unlawful for any person, firm or corporation owning a cemetery lot in the city cemeteries (Cedar Grove Cemetery, Sullins Cemetery, or Hammonds Cemetery) to sell, transfer, or convey the same without obtaining the prior written consent of the city manager. All transfers of ownership in plots and all assignments shall be subject to a charge of five dollars (\$5.00) to be paid to the city manager at the time of transfer or assignment. (1972 Code, § 12-501)

20-102. Price of lots. The price of lots shall be established by the city council in regular session and future changes in the price of lots may be governed as economic conditions may dictate. Said current prices are as follows:

	1 GRAVE - ATHENS RESIDENTS & ATHENS <u>PROPERTY OWNERS</u>	1 GRAVE - NON ATHENS RESIDENTS & NON ATHENS <u>PROPERTY OWNERS</u>
CEDAR GROVE CEMETERY	\$300.00	\$500.00
SULLINS CEMETERY	125.00	175.00
HAMMONDS CEMETERY	100.00	125.00

GRAVE OPENINGS

CEDAR GROVE CEMETERY	\$400.00
SULLINS CEMETERY	400.00
HAMMONDS CEMETERY	400.00
CREMATED REMAINS	100.00
INFANTS	150.00

(1972 Code, § 12-502, as amended by Ord. #831, June 1997, Ord. #884, Oct. 2001, and Ord. #971, Aug. 2008)

20-103. Grave markers and monuments. Only one (1) monument shall be erected on any grave lot or any full size lot containing multiple grave sites. The area of the base of the memorial shall not exceed 10% of the area of the lot. The length of the base of the memorial shall not exceed 60% of the width of the lot. The width of the base of the memorial shall not exceed twenty (20%) percent of the length of the lot. Foot markers may be permitted, provided they are placed flush with the ground. Exceptions to the above may be made on all markers furnished by the federal government. Foundations will be required for all monuments and markers of every description. All foundations must be of concrete, flush with the ground, and of ample size and depth to properly carry the size and weight of the stone.

If and when the city develops or establishes a new addition to the Cedar Grove Cemetery or other cemetery in the City of Athens, the same will be known as a memorial type cemetery and, so far as this type of cemetery is concerned, no above ground monuments or markers of any description will be permitted. (1972 Code, § 12-503)

20-104. Fences or walls. No fences or walls shall hereafter be erected upon any cemetery lot and no corner markers or slabs shall rise above the ground.

The city will install all corner markers on lots at the cost of the marker and labor, plus 10% of said total cost. (1972 Code, § 12-504)

20-105. Shrubbery, plants, flowers, trees, or growth. Planting of shrubs, plants, flowers, trees, or other growth will not be permitted except by special

permission of the city manager. No person shall disturb the sod, plants, trees, shrubs or flowers that have been planted by the City of Athens or authorized persons, or interfere in any manner with the general design and beauty of the cemeteries. Flowers, vases, wreaths, flags and other temporary decorations may be placed upon lots or graves contingent on the right of the city to remove them after a reasonable time if they become unsightly or mar the beauty or the appearance of the cemeteries. (1972 Code, § 12-505)

20-106. Depths and boundaries of graves. All graves shall be at least six (6) inches within the boundary lines of the burial lot, and shall be at least four (4) feet in depth. Grave sites in all future plots shall be 4' x 10'. (1972 Code, § 12-506)

20-107. Responsibility of mortuary. It will be the responsibility of the mortuary or other persons responsible for preparing a grave site to remove all surplus dirt from the grave site or area surrounding the grave site provided such surplus dirt was created as a result of preparing a grave site.

Grave openings shall be paid for in advance, or satisfactory credit arrangements made, by the funeral director seeking or requesting the opening. (1972 Code, § 12-507)

20-108. Identification of lots and/or grave sites. The City of Athens will not be responsible for locating a grave site in a plot where interment is desired and directed by the proper owner of the lot or any person having authority to authorize same as far as any mistake occurring for want of proper instruction as to the particular space, size, or location in a plot from any person, firm, or corporation. The City of Athens will assist the owners of lots of record insofar as it may be practicable to do so in order to insure that any undue hardship or other inconveniences to family or friends of the deceased may be eliminated. (1972 Code, § 12-508)

20-109. Compliance with chapter. All lot owners will be furnished a copy of this chapter upon request, or at the time of purchase of a lot. It is hereby expressed that the owner of lots of record prior to the adoption of the provisions in this chapter are subject to the terms and provisions hereof upon their final passage by the city council of the City of Athens, Tennessee. (1972 Code, § 12-509)

20-110. Uses. The lots are hereby set apart and dedicated as burial places for the remains of human beings only and for no other burials thereon and shall be maintained forever by the City of Athens, Tennessee. (1972 Code, § 12-510)

20-111. Producers and retail dealers of monumental materials. Producers and retail dealers of monumental materials shall not be permitted to

erect any stone or do any work in a city cemetery until they have submitted satisfactory evidence of their ability to perform the work and have filed and posted a good and sufficient bond in the sum of two thousand dollars (\$2,000.00) with the city manager which bond shall be conditioned that the principal thereof shall conform and comply with the regulations as established by the city manager. (1972 Code, § 12-511)

20-112. Administration and management. The management of all city cemeteries shall be under the direction of the city manager, who in turn shall be responsible to the city council for their direct and complete supervision. The city manager is designated as the custodian of all maps and is responsible for the issuing and recording of deeds and causing proper entries to be made in all permanent records maintained by the City of Athens. The director of finance will be the custodian of all cemetery funds and will disburse any income derived therefrom at the direction of the city council.

The director of finance will comply with the general state law in establishing a perpetual care fund and complying with other cemetery requirements. (1972 Code, § 12-512)

20-113. Irrevocable trust agreement authorized. The mayor and city manager are authorized to enter into and execute an irrevocable trust agreement with any trustee qualified to act as fiduciary in the State of Tennessee, as approved by city council for the purpose of maintaining the funds of the City of Athens cemeteries. (1972 Code, § 12-513, as amended by Ord. #917, April 2004)

CHAPTER 2

DEPARTMENT OF PARKS AND RECREATION

SECTION

20-201. Creation of department.

20-202. Head of department.

20-203. Duties of head of department.

20-201. Creation of department. There is hereby established a "department of parks and recreation." (1972 Code, § 1-1201, as amended by Ord. #917, April 2004)

20-202. Head of department. The city manager, or such assistant appointed by him, shall be the head of the department of parks and recreation. (1972 Code, § 1-1202, as amended by Ord. #917, April 2004)

20-203. Duties of head of department. It shall be the duty of the head of the department of parks and recreation to oversee, develop, provide, maintain, conduct, and supervise public playgrounds, athletic fields, recreation centers, and other recreational facilities and activities on properties owned or controlled by the city, and on other properties with the consent of the owners or lessors. It shall have the power to conduct any form of recreation or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner. The aim and purpose to be the advancement of the welfare of the citizens and residents of the city in the area of recreation. (1972 Code, § 1-1203, as amended by Ord. #917, April 2004)

CHAPTER 3

PARKS AND RECREATION FACILITIES

SECTION

- 20-301. Definitions.
- 20-302. Persons invited to use city parks; park hours.
- 20-303. Unlawful activities generally.
- 20-304. Sanitation.
- 20-305. Traffic.
- 20-306. Recreational activities.
- 20-307. Certain behavior declared unlawful.
- 20-308. Merchandising, advertising and signs.
- 20-309. Park operating policy.
- 20-310. Enforcement.
- 20-311. Additional rules and regulations.
- 20-312. Liability for injuries or damages.

20-301. Definitions. For the purposes of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "City" is the City of Athens Tennessee.

(2) "Director" is the Director of Recreation and Parks of the City of Athens, the person immediately in charge of all park area and its activities, and to whom all park employees in such area are responsible.

(3) "Park" is all city owned parks including any facilities or improvements.

(4) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(5) "Vehicle" is any wheeled conveyance, whether or not motor powered, animal-drawn, or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks. (1972 Code, § 12-701)

20-302. Persons invited to use city parks; park hours. (1) All persons are invited to use city parks and their facilities who will comply with the terms hereof and such rules and regulations as may be promulgated hereunder governing the use of city parks.

(2) City parks will be open to use by the public invited thereto between the hours of 7:00 a.m. and 12:00 midnight unless posted otherwise. (1972 Code, § 12-702)

20-303. Unlawful activities generally. It shall be unlawful and constitute a misdemeanor for any person within city parks to:

(1) Buildings and other property. (a) Disfigurement and removal. Willfully mark, default, disfigure, injure, tamper with, or displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts of appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(b) Rest rooms and washrooms. Failure to cooperate in maintaining rest rooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the rest rooms and washrooms designated for the opposite sex.

(c) Removal of natural resources. Dig or remove any soil, rock, stones trees, shrubs or plants, down-timber, or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(d) Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

(2) Trees, shrubbery, lawns. (a) Injury and removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(b) Climbing trees, etc. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences, or upon any other property not designated or customarily used for such purposes.

(c) Hitching of animals. Tie or hitch a horse or other animal to any tree or plant.

(3) Wild animals, birds, etc. (a) Hunting, molesting, etc. Hunt, molest, harm, frighten , kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird. Exception to the foregoing is made in that snakes known to be deadly poisonous may be killed on sight.

(b) Feeding. Give or offer, or attempt to give any animal or bird any tobacco, alcohol or other known noxious substances. (1972 Code, § 12-703)

20-304. Sanitation. It shall be unlawful for any person within city parks to:

(1) Pollution of waters. Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(2) Refuse and trash. Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the persons responsible for its presence, and properly disposed of elsewhere. (1972 Code, § 12-704)

20-305. Traffic. It shall be unlawful for any person within the parks to:

(1) State motor vehicle laws and city traffic ordinances apply. Fail to comply with all applicable provisions of the state motor vehicle traffic laws and the traffic ordinances of the City of Athens in regard to equipment and operation of vehicles together with such regulations as are contained in this chapter and other ordinances.

(2) Obey personnel; enforcement of traffic regulations. Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks.

(3) Operation confined to specific areas. Drive any vehicle on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the director.

(4) Parking. (a) Designated areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instructions of any employee who may be present.

(b) Full-parking. Full-park on the road or driveway at any time.

(c) Night parking. Leave a vehicle standing or parked at night without lights clearly visible for at least one hundred (100) feet from both front and rear and on any driveway or road area except legally established parking areas.

(d) Emergency procedure. Fail to immediately notify a park employee or by placing a note on disabled vehicle of an emergency in the nature of a breakdown requiring the assistance of a tow truck, mechanic or other person.

(e) Abandonment. Leave a vehicle within the boundaries of the park after park hours unless such vehicle be disabled and is reported by the driver to a park employee. Any vehicle remaining in said park after

closing hours, except as is excepted herein will be towed away and stored at the expense of the owner.

(5) Bicycles, motorcycles and all terrain vehicles. (a) Confined to roads. Ride a bicycle or motorcycle on other than a paved vehicular road or specifically designated route.

(b) All terrain vehicle. Ride an all terrain vehicle in the park.

(c) Operation generally. Ride a bicycle or motorcycle on other than on the right-hand side of the road paving as close as conditions permit, and bicycles and motorcycles shall be kept in single file when two (2) or more are operating as a group. Bicyclists and motorcyclists shall, at all times, operate their machines with reasonable regard to the safety of others, signal all turns and follow the recommended passing procedures when overtaking vehicles. No motorcycles shall be operated in the park unless equipped with a properly functioning muffler adequate to suppress motor noise to a comfortable level of sound.

(d) Rider prohibited. Ride any other person on a bicycle unless properly equipped for such purpose.

(e) Designated racks. Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.

(f) Immobile. Leave a bicycle or motorcycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.

(g) Night operation. Ride a bicycle or motorcycle on any road within the park between thirty (30) minutes after sunset or thirty (30) minutes before sunrise without an attached headlight plainly visible at least two hundred (200) feet in front of, and without a red tail light or red reflector plainly visible from at least one hundred (100) feet from the rear of such bicycle or motorcycle. (1972 Code, § 12-705)

20-306. Recreational activities. It shall be unlawful for any person within the city park to:

(1) Swimming, etc. Swim, bathe or wade in any waters or waterways in or adjacent to such park unless so designated and clearly marked by signs.

(2) Boating. Bring into or operate a privately owned boat, raft or other watercraft, whether motor-powered or not, upon any waters in such park.

(3) Hunting and firearms. Hunt, trap or pursue wildlife at any time in violation of the Tennessee Wildlife Resources Agency rules and regulations. No person shall carry a weapon on public parks, playgrounds, civic centers and other public recreational buildings and grounds. It is an offense for any person to possess or carry, whether openly or concealed, any firearm of any description or air-rifles, spring guns bows and arrows, slings or any other form of weapon potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Events sanctioned by the City of Athens for instructional, ceremonial or competitive purposes or for display or sales purposes are excluded

from this prohibition. Bonded law enforcement officers retain full authority and are not prohibited by this section.

(4) Fishing. Fish without complying with the "Tennessee Fishing Regulations" as published by the Tennessee Wildlife Resources Agency and any local rules or guidelines.

(5) Picnic areas. (a) Generally. Picnic or lunch in a place other than those designated for that purpose. Park employees shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(b) Availability. Violate the regulation that use of the individual fireplaces/grills together with tables and benches follows generally the rule of "first come, first served."

(c) Nonexclusive. Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.

(d) Duty of picnicker. Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(6) Camping. Except as specifically set out below, to set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as house-trailer, camp-trailer, camp-wagon or the like. Overnight "pup tent" camping by organized groups sponsored by recognized youth development agencies is permissible by special permit of the director obtained in accordance with § 20-309(3).

(7) Games. Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is prohibited except on the fields and courts or areas provided therefor. (1972 Code, § 12-706, as amended by Ord. #883, Oct. 2001)

20-307. Certain behavior declared unlawful. It shall be unlawful for any person within the city park to:

(1) Domestic animals. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than five (5) feet in length. Horseback riding is permitted only in areas so designated by signs or by written permission of the director.

(2) Reservation of facilities. Occupy any seat or bench, or enter into or loiter or remain in any pavilion or other park structure or section thereof (example: rest rooms) which may be reserved and designated by the director for the use of the opposite sex. Exception is made for children under six (6) years of age.

(3) Alms. Solicit alms or contributions for any purpose, whether public or private.

(4) Fires. Build or attempt to build a fire except in such areas and under such regulations as may be designated by the director. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

(5) Closed areas. Enter an area posted as "Closed to the Public," nor shall any person use or abet the use of any area in violation of posted notices.

(6) Going onto ice. Go onto the ice on any of the waters except such areas as are designated as skating fields, and provided a safety signal is displayed.

(7) Exhibit permits. Fail to produce and exhibit any permit from the director upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with an ordinance or rule.

(8) Interference with permittees. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.

(9) Intoxicating beverages. Possess controlled substances and/or alcoholic beverages, wine, and/or beer at any time. This prohibition shall not apply to a licensed caterer selling any alcoholic beverage, wine, and/or beer at the Athens Regional Park conference center or to persons who have purchased any alcoholic beverage, wine, and/or beer from a caterer selling such alcoholic beverage, wine, and/or beer for consumption at the conference center or other designated area adjoining the conference center and the possession occurs at the conference center or other designated area adjoining the conference center. (1972 Code, § 12-707, as amended by Ord. #780, Aug. 1993, and Ord. #890, Jan. 2002)

20-308. Merchandising, advertising and signs. No person in a city park shall:

(1) Vending and peddling. Expose or offer for sale any article, thing or service nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the director, and those conducting activities under a permit where such permit permits the sale of articles or things. The exception under the permit shall only be granted to those activities which are charitable in purpose.

(2) Advertising. Announce, advertise or call the public attention in any way to any article or service for sale or hire without written permission from the director.

(3) Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a city park. (1972 Code, § 12-708)

20-309. Park operating policy. (1) Closed areas. Any section or part of a city park may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the director shall find reasonably necessary.

(2) Lost and found articles. The finding of lost articles by park employees shall be reported to the director who shall make every reasonable effort to locate the owners. The director shall make every reasonable effort to find articles reported as lost.

(3) Permit. A permit shall be obtained from the director before participating in the following park activity: overnight "pup tent" type camping by organized groups under the sponsorship of recognized youth development agencies; sale of merchandise or services by a permittee for a charitable purpose; special events.

(a) Application. A person seeking issuance of a permit hereunder shall file an application with the appropriate director. The application shall state:

- (i) The name and address of the applicant;
- (ii) The name and address of the person, persons, corporation or association sponsoring the activity, if any;
- (iii) The day and hours for which the permit is desired;
- (iv) The park or portion thereof for which such permit is desired;
- (v) An estimate of the anticipated attendance; and
- (vi) Any other information which the director shall find reasonably necessary to a fair determination as to whether a permit should issue hereunder.

(b) Standards for issuance. The director shall issue a permit hereunder when he finds:

- (i) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
- (ii) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (iii) That the proposed activity or use is not unreasonably anticipated to incite violence, crime or disorderly conduct;

(iv) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city; and

(v) The facilities desired have not been reserved for other use at the day and hour required in the application.

(c) Appeal. With five (5) working days after receipt of an application, the director shall apprise an applicant in writing of his reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within two (2) days to the city manager, which shall consider the application under the standards set forth in subsection (3)(b) hereof and sustain or overrule the director's decision within twenty-four (24) hours. The decision of the city manager shall be final.

(d) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.

(e) Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued, and shall provide certificate of insurance upon request.

(f) Revocation. The director shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown. (1972 Code, § 12-709, modified)

20-310. Enforcement. (1) Officials. The director, park employees, and members of the Athens Police Department shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(2) Ejectment. The director, any park employees, and members of the Athens Police Department shall have the authority to eject from the parks any person acting in violation of this chapter or rules and regulations promulgated hereunder. (1972 Code, § 12-710, as amended by Ord. #890, Jan. 2002)

20-311. Additional rules and regulations. The director shall have the authority to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter and to assure an impartial, fair and safe use and enjoyment of city parks by those persons lawfully using the parks. The director shall have the authority to schedule the use of tennis courts and ball fields under this section. Regulations pertaining to specific activities shall be displayed in a prominent and public location at the point of the activity controlled. Rules and regulations pertaining to the parks as a whole shall be publicly and prominently displayed at each entrance to city parks. Rules and regulations adopted in accordance with this section shall have the same force and effect as if copied herein verbatim. (1972 Code, § 12-711)

20-312. Liability for injuries or damages. All persons using the parks will do so at their own risk. The city will not be liable for any injuries or damages sustained by persons using said parks. (1972 Code, § 12-712)

CHAPTER 4

CIVIL EMERGENCIES

SECTION

- 20-401. Definitions.
- 20-402. Proclamation of civil emergency.
- 20-403. Curfew authorized.
- 20-404. Powers of mayor during civil emergency.
- 20-405. Violations.
- 20-406. No intent to limit peaceful demonstrations, etc.
- 20-407. Exceptions to curfew.

20-401. Definitions. (1) A "civil emergency" is hereby defined to be:

(a) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force, if accompanied by the immediate power to execute, by three or more persons acting together without authority of law.

(b) Any natural disaster or man-made calamity including, but not limited to, flood, conflagration, cyclone, tornado, earthquake, or explosion within the geographic limits of Athens, Tennessee, resulting in the death or injury of persons, or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety, and welfare.

(c) The destruction of property or the death or injury of persons brought about by the deliberate acts of one or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

(2) A "curfew" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing, or motoring upon any alley, street, highway, public property, vacant premises within the corporate limits of Athens, Tennessee, except persons officially designated to duty with reference to said civil emergency or those lawfully on the streets as defined hereinafter. (1972 Code, § 1-1301)

20-402. Proclamation of civil emergency. When, in the judgment of the mayor or, in his absence from the city, the vice-mayor, a civil emergency as defined herein is deemed to exist, he shall forthwith proclaim in writing the existence of same, a copy of which proclamation will be filed with the city manager or director of finance. (1972 Code, § 1-1302)

20-403. Curfew authorized. After proclamation of a civil emergency by the mayor, he may order a general curfew applicable to such geographic areas of the city or to the city as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the

public safety and welfare. Said proclamation and general curfew shall have the force and effect of law and shall continue in effect until rescinded in writing by the mayor, but not to exceed fifteen (15) days. (1972 Code, § 1-1303)

20-404. Powers of mayor during civil emergency. After proclamation of a civil emergency, the mayor of Athens, Tennessee, may at his discretion, in the interest of public safety and welfare, make any of the following orders:

- (1) Order the closing of all retail liquor stores.
- (2) Order the closing of all establishments wherein beer or alcoholic beverages are served.
- (3) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.
- (4) Order the discontinuance of the sale of beer.
- (5) Order the discontinuance of selling, distribution, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (6) Order the closing of gasoline stations and other establishments the chief activity of which is the sale, distribution, or dispensing of liquid flammable or combustible products.
- (7) Order the discontinuance of selling, distributing, dispensing, or giving away of any firearms or ammunition of any character whatsoever.
- (8) Order the closing of any or all establishments, or portions thereof, the chief activity of which is the sale, distribution, dispensing, or giving away of firearms and/or ammunition.
- (9) Issue such other orders as are necessary for the protection of life and property. (1972 Code, § 1-1304)

20-405. Violations. Any person violating the provisions of this chapter or any executive order issued pursuant hereto shall be guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1972 Code, § 1-1305)

20-406. No intent to limit peaceful demonstrations, etc. It is the intent of the city council not to limit peaceful demonstrations, freedom of speech, or the lawful use of the streets, alleys, and public property except to the extent necessary to avert or control a civil emergency. (1972 Code, § 1-1306)

20-407. Exceptions to curfew. Any curfew, as defined herein, shall not apply to persons lawfully on the streets and public places during a civil emergency who have obtained permission of the chief of police, which permission shall be granted on good cause shown. This curfew also shall not apply to medical personnel in the performance of their duties. (1972 Code, § 1-1307)

CHAPTER 5

TREE AND SHRUB POLICY

SECTION

- 20-501. Definitions.
- 20-502. Creation and establishment of a city tree board.
- 20-503. Term of office.
- 20-504. Compensation.
- 20-505. Duties and responsibilities.
- 20-506. Operation.
- 20-507. Street tree species to be planted.
- 20-503. Spacing.
- 20-509. Distance from curb and sidewalk.
- 20-510. Utilities.
- 20-511. Public tree care.
- 20-512. Tree topping.
- 20-513. Pruning, distance from street corners and fireplugs.
- 20-514. Dead or diseased tree removal on private property.
- 20-515. Removal of stumps.
- 20-516. Interference with city tree board.
- 20-517. Right to appeal decision of city tree board.
- 20-518. Violation.

20-501. Definitions. "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

"Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

"Parkway" is herein defined as that part of a street or highway not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually reserved for vehicular traffic. (1972 Code, § 12-601)

20-502. Creation and establishment of a city tree board. There is hereby created and established a City Tree Board for the City of Athens, Tennessee. (1972 Code, § 12-602, modified)

20-503. Term of office. The Recreation Advisory Board (RAB) shall comprise the City Tree Board and shall serve according to their RAB terms. (1972 Code, § 12-603, modified)

20-504. Compensation. Members of the board shall serve without compensation. (1972 Code, § 12-604)

20-505. Duties and responsibilities. It shall be the responsibility of the board to develop and administer a written plan for the planting, maintenance, and removal of trees and other woody growth on all public parks, city-owned areas, and city parkways. This plan will be presented as part of the department of recreation and park development's annual report to the city council, and upon their approval shall constitute the official comprehensive city tree plan for the City of Athens. The board, when requested by city council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. (1972 Code, § 12-605)

20-506. Operation. The board will operate under this chapter and Robert's Rules of Order, Newly Revised, and will be accountable to the city manager. (1972 Code, § 12-606, modified)

20-507. Street tree species to be planted. The following list constitutes the official street tree species for Athens, Tennessee. No species other than those included in this list may be planted as street trees without written permission of the city tree board.

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Flowering Dogwood	Red Oak (Southern,	Cottonwood
Flowering Redbud	Northern, Scarlet,	Tulip Poplar
Flowering Crabapple	Pin, Willow)	Maple (Sugar)
Hawthorn	White Oak	Bald Cypress*
(Washington,	Sassafras	Dawn Redwood*
Cockspur, Lavallo)	Ginkgo	Yellowwood
Pear (Bradford,	Linden	Sweetgum
Callery)	Birch (Paper, River)	American Beech
Japanese Flowering	Japanese Pogoda Tree	Northern Catalpa
Cherry	Pine (Eastern White,	Pecan
Amur Cork Tree	Austrian Scotch,	Shagbark Hickory
Goldenrain Tree	Loblolly)	Southern Magnolia
Serviceberry	White Cedar	Sycamore
Carolina Silverbell	Atlas Cedar	Hemlock
Russian Olive	Green Ash	Spruce (Norway,

*Denotes evergreen trees that lose needles in the Fall.

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
American Hornbeam	Sawtooth Oak	Blue)
Smoke Tree	Maple (Red, Norway)	Fir (White,
Kwanzan Cherry		Douglas)
Purpleleaf Plum		
American Holly		
American Arborvitae		
Junipers		

(1972 Code, § 12-607)

20-508. Spacing. The spacing of street trees will be in accordance with the three species size classes listed in § 20-507, and no trees may be planted closer together than the following: Small trees, twenty (20) feet; medium trees, thirty (30) feet; and large trees, forty (40) feet; except in special plantings designed or approved by the tree board. (1972 Code, § 12-608)

20-509. Distance from curb and sidewalk. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in § 20-507 of this chapter, and no trees may be planted closer to any curb or sidewalk than the following: Small trees, two (2) feet; medium trees, four (4) feet; and large trees, six (6) feet. (1972 Code, § 12-609)

20-510. Utilities. No street trees other than those species listed on small trees in § 20-507 of this chapter may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. (1972 Code, § 12-610)

20-511. Public tree care. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the property lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The city tree board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with §§ 20-507--20-510 of this chapter. Provided: nothing contained in this section shall relieve the owner of abutting property of the responsibility to

prune, maintain, and remove trees lying within the right-of-way of the street. (1972 Code, § 12-611)

20-512. Tree topping. It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter. The Athens Utilities Board and its designated representative in tree topping shall be exempt from this section. (1972 Code, § 12-612)

20-513. Pruning, distance from street corners and fireplugs. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen (14) feet. It shall also be unlawful to have or maintain any tree, shrub, or woody plant which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. These obstructions shall not be above two (2) feet in height and shall not be allowed within fifty (50) feet from the center line of any street. No street trees shall be planted closer than ten (10) feet of any fireplug. Property owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees, and the whole cost thereof, plus 15% for inspection and other incidental costs in connection therewith, shall be paid by the owner or owners of said lot or parcel of land, and said costs shall be billed to the owner or owners of the property. If the bill is not fully paid within 120 days after the mailing of said bill, a 10% penalty shall be added, and it shall be placed on the tax roll of the City of Athens as a lien upon the property and collected in the same manner as other city taxes are collected. (1972 Code, § 12-613)

20-514. Dead or diseased tree removal on private property. The city shall have the right to cause the removal of any trees that are dead or diseased on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city.

The city tree board shall determine which tree or trees are to be removed. The owner of the trees will be notified in writing of such proposed removal stating the reason for the removal and the location of said tree or trees to be removed. If the owner desires to contest the removal of said tree or trees, he shall, within ten (10) days from the date of notice of removal, request, in writing, a hearing before the city tree board. If it is determined after said hearing that

said tree or trees are to be removed, the removal shall be done by said owners at the owner's expense within sixty (60) days after the date of the decision to remove. In the event the owner fails to comply with such order to remove, the city shall then proceed to remove said tree or trees, and to charge removal costs to the owner of the property as provided in § 20-513. (1972 Code, § 12-614)

20-515. Removal of stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (1972 Code, § 12-615)

20-516. Interference with city tree board. It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds as authorized in this chapter. (1972 Code, § 12-616)

20-517. Right to appeal decision of city tree board. Any party shall have a right to appeal the decision of the city tree board. If the owner does wish to contest the decision of the city tree board, he shall, within ten (10) days from the date of the hearing before the city tree board, request, in writing, a hearing before city council for a review and/or hearing on said decision. (1972 Code, § 12-617)

20-518. Violation. The violation of any provision of this chapter is declared to be a misdemeanor. (1972 Code, § 12-618)

CHAPTER 6

FAIR HOUSING

SECTION

- 20-601. Title.
- 20-602. Definitions.
- 20-603. Purposes of law, construction, effect.
- 20-604. Unlawful housing practices.
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20-601. Title. This chapter shall be known and may be cited as the City of Athens "Fair Housing Ordinance." (1972 Code, § 4-701)

20-602. Definitions. Except where the context clearly indicates otherwise, the following terms as used in this chapter shall have the following meanings:

(1) "Hearing board" means that body of citizens duly appointed by the city council to hear, make determinations, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

(2) "Conciliation agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(3) "Conciliation failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, handicaps, familial status, or sex or the aiding, abetting, inciting, coercing or compelling thereof.

(5) "Real property" includes building, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as a home or residence of one or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship, committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the city or county or any of its agencies or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting in behalf of any of these.

(8) "Real estate broker" or "real estate salesman" means an individual whether licensed or not who, on behalf of others, for a fee commission, salary or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities, or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these. (1972 Code, § 4-702, modified)

20-603. Purposes of law, construction, effect. (1) The general purposes of this chapter are:

(a) To provide for execution within the City of Athens in the policies embodied in Title VIII of the Federal Civil Rights Act of 1968 as amended.

(b) To safeguard all individuals within the city from discrimination in housing opportunities because of race, color, religion, national origin, or sex, thereby to protect their interest in personal dignity and freedom from humiliation; to secure the city against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interests, rights, and privileges of individuals within the city.

(2) Nothing contained in the chapter shall be deemed to repeal any other law of this city relating to discrimination because of race, color, religion, national origin, or sex. (1972 Code, § 4-703)

20-604. Unlawful housing practices. It is an unlawful practice for a real estate operator or for a real estate broker, real estate salesman, or any individual employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin, handicaps, familial status, or sex;

(2) To discriminate against an individual because of his or her race, color, religion, national origin, handicaps, familial status, or sex in the terms, conditions, or privileges of this sale, exchange, rental or lease of real property or in the furnishings of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his or her race, color, religion, national origin, handicaps, familial status, or sex;

(4) To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his or her race, color, religion, national origin, handicaps, familial status, or sex;

(5) To represent to an individual that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his or her race, color, religion, national origin, handicaps, familial status, or sex;

(6) To print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification or discrimination as to race, color, religion, national origin, handicaps, familial status, or sex or an intent to make such limitation, specification, or discrimination;

(7) To offer, solicit, accept, use or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of race, color, religion, national origin, handicaps, familial status, or sex; or

(8) To otherwise deny to or withhold real property from an individual because of race, color, religion, national origin, handicaps, familial status, or sex. (1972 Code, § 4-704, modified)

20-605. Blockbusting. It is an unlawful practice for a real estate operator, a real estate broker, real estate salesman, a financial institution, an employee of any of these or any person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, or national origin of the owners or occupants in the block, neighborhood, or areas in which the real property is located; or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located. (1972 Code, § 4-705)

20-606. Exemptions from housing provisions. (1) Nothing in § 20-604 shall apply:

(a) To the rental of housing accommodations in a building which contains housing accommodations for not more than four families living independently of each other, if the owner or member of his family resides in one of the housing accommodations;

(b) To the rental of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family resides therein;

(c) (i) any single-family house sold or rented by an owner: provided, that such private individual owner does not own more than three such single-family houses at any one time: provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: provided further, that after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(ii) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(2) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled with a religious organization, association, or society, from limiting the sale, rental, or occupancy

of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such a religion is restricted on account of race, color, sex, or national origin.

(3) Single sex dormitory rental property shall be excluded from the provisions of this act which relate to discrimination based on sex. (1972 Code, § 4-706, modified)

20-607. Provisions for enforcement. (1) The violation of any of the provisions of this chapter shall subject the violator to a civil penalty up to \$500. Provided that each day the violation continues it will be a separate offense. However, the total penalty shall not exceed \$1,000.00.

(2) The city may sue in a civil action for appropriate remedies to enforce the provisions of this chapter, including temporary restraining orders and mandatory and prohibitory injunctions.

(3) In addition to the appropriate civil and/or equitable remedies for enforcement of this chapter, a violation of this chapter shall constitute a misdemeanor punishable as provided by law. (1972 Code, § 4-707, modified)

20-608. Agency no defense in proceeding against real estate dealer. It shall be no defense to a violation of this chapter by a real estate owner or operator, real estate broker, real estate salesman, a financial institution, or other person subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter. (1972 Code, § 4-708)

20-609. Establishment of procedures for conciliation. (1) The city council shall designate an agent(s) to investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation efforts may be initiated by any person(s) said to be subject to discrimination as defined in this chapter.

(2) The city council shall establish a hearing board, consisting of no less than five (5) members, which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearings by the board shall commence whenever the agent(s) acting on behalf of the city decides a conciliation failure has occurred and the respondent agrees to participate in the hearing board proceedings. Hearing open to the public may be initiated by the responding party at any time during the conciliation process. (1972 Code, § 4-709)

20-610. Findings of hearing board; nature of affirmative action. (1) If the hearing board determines that the respondent has not engaged in an unlawful practice, the board shall state its finding of fact and conclusions of law

and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the city attorney, and such other public officers and persons as the board deems proper.

(2) If the hearing board determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and conclusions of law and shall negotiate such affirmative action as in its judgment will carry out the purposes of this chapter. A copy of the findings shall be delivered to the respondent, the complaint, the city attorney and such other public officials, officers and persons as the board deems proper.

(3) Affirmative action negotiated under this section may include, but not be limited to:

- (a) Extension of all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;
- (b) Reporting as to the manner of compliance;
- (c) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the hearing board;
- (d) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.

(4) The provision for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this chapter. (1972 Code, § 4-710)

20-611. Investigations, powers, records. (1) In connection with an investigation of a complaint filed under this chapter, the enforcing agent(s) at any reasonable time may request voluntary access to premises, records and documents relevant to the complaint and may request the right to examine, photograph, and copy evidence.

(2) Every person subject to the chapter shall make, keep and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.

(3) A person who believes that the application of any regulation or order issued under this section would result in undue hardship may apply to the hearing board for an exemption from the application of the regulational order. If the board finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief. (1972 Code, § 4-711)

20-612. Conspiracy to violate this chapter unlawful. It shall be unlawful practice for a person, or for two or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she had made a charge, filed a complaint, testified, assisted or

participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(2) To aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; or

(4) To resist, prevent, impede, or interfere with the enforcing agent(s), hearing board, or any of its members or representatives in the lawful performance of duty under this chapter. (1972 Code, § 4-712)

ORDINANCE NO. 802

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF ATHENS, TENNESSEE.

WHEREAS some of the ordinances of the City of Athens are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the City Council of the City of Athens, 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 "Athens Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF ATHENS, AS FOLLOWS:

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 "Athens 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 budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance

dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter, or section of the municipal code, 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."

Each day any violation of the municipal code continues shall constitute a separate civil offense. (Ord. #792, July 1994)

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The city council, 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 city manager's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading JANUARY 17, 1995.

Passed 2nd reading FEBRUARY 21, 1995.

Passed 3rd reading MARCH 21, 1995.

/s/ Lawrence A. Roseberry
Mayor

/s/ Melvin L. Barker
City Manager

/s/ Kenneth D. Higgins
City Attorney