

**THE
BANE BERRY
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

June 2022

CITY OF BANEERRY, TENNESSEE

MAYOR

Donna Hernandez

VICE MAYOR

Tom Carter

CITY COMMISSIONER

Gary Zander

CITY MANAGER

Thomas Nuzzi

CITY RECORDER

Nancy Zander

CITY ATTORNEY

Doug Drinnon

PREFACE

The Baneberry Municipal Code contains the codification and revision of the ordinances of the City of Baneberry, 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 § 2-106.

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

Codification Consultant

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

1. General power to enact ordinances: (6-19-101)
2. All ordinances shall begin, "Be it ordained by the City of Baneberry as follows:" (6-20-214)
3. Ordinance procedure
 - (a) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.
 - (b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided, that it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.
 - (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.
 - (d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. (6-20-215)
4. Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city. (6-20-218)

TABLE OF CONTENTS

	<u>PAGE</u>
<u>INTRODUCTION</u>	
OFFICIALS OF THE CITY OR TOWN AT TIME OF CODIFICATION	ii
PREFACE	iii
ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY OR TOWN CHARTER	v

CHARTER

CHARTER TABLE OF CONTENTS	C-1
TEXT OF CHARTER	C-2

CODE OF ORDINANCES

CODE-ADOPTING ORDINANCE	ORD-1
TITLE 1. GENERAL ADMINISTRATION	1-1
CHAPTER	
1. BOARD OF COMMISSIONERS	1-2
2. MAYOR	1-4
3. CITY MANAGER	1-5
4. RECORDER	1-6
5. CODE OF ETHICS	1-7
TITLE 2. BOARDS AND COMMISSIONS, ETC.	2-1
CHAPTER	
1. BOARD OF COMMISSION AND ROAD POLICY ...	2-1
2. PARKS AND RECREATION COMMISSION	2-20
TITLE 3. MUNICIPAL COURT	3-1
CHAPTER	
1. CITY JUDGE	3-1
2. COURT ADMINISTRATION	3-3
3. SUMMONSES AND SUBPOENAS	3-4
4. BONDS AND APPEALS	3-5

	<u>PAGE</u>
TITLE 4. MUNICIPAL PERSONNEL	4-1
CHAPTER	
1. PERSONNEL REGULATIONS	4-1
2. TRAVEL REIMBURSEMENT REGULATIONS	4-2
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM	4-11
TITLE 5. MUNICIPAL FINANCE AND TAXATION	5-1
CHAPTER	
1. MISCELLANEOUS	5-1
2. PURCHASING PROCEDURES	5-2
3. PRIVILEGE AND BUSINESS TAX	5-23
4. PROPERTY TAX COLLECTION	5-24
5. DEBT MANAGEMENT POLICY	5-25
6. USE OF COLLECTION AGENCY	5-31
7. HOTEL/MOTEL TAX	5-32
TITLE 6. LAW ENFORCEMENT	6-1
RESERVED FOR FUTURE USE	
TITLE 7. FIRE PROTECTION AND FIREWORKS	7-1
CHAPTER	
1. FIRE CODE	7-1
2. FIRE DEPARTMENT	7-2
3. OPEN BURNING	7-5
TITLE 8. ALCOHOLIC BEVERAGES	8-1
CHAPTER	
1. BEER	8-1
TITLE 9. BUSINESS, PEDDLERS, SOLICITORS, ETC.	9-1
CHAPTER	
1. PEDDLERS, SOLICITORS, ETC.	9-1
2. CABLE TELEVISION	9-10

	<u>PAGE</u>
TITLE 10. ANIMAL CONTROL	10-1
CHAPTER	
1. ANIMAL CONTROL	10-1
TITLE 11. MUNICIPAL OFFENSES	11-1
CHAPTER	
1. HUNTING	11-1
2. OFFENCES AGAINST THE PEACE AND QUIET .	11-3
TITLE 12. BUILDING, UTILITY, ETC. CODES	12-1
CHAPTER	
1. CODES ADOPTED	12-1
2. BUILDING PERMIT FEES AND INSPECTIONS ..	12-7
3. CONSTRUCTION OF PORCHES AND DECKS ..	12-15
4. GARAGES, ACCESSORY BUILDINGS, AND CARPORTS	12-17
TITLE 13. PROPERTY MAINTENANCE REGULATIONS	13-1
CHAPTER	
1. MISCELLANEOUS	13-1
2. JUNKYARDS	13-6
3. JUNKED MOTOR VEHICLES	13-7
TITLE 14. ZONING AND LAND USE CONTROL	14-1
CHAPTER	
1. MUNICIPAL PLANNING COMMISSION	14-1
2. ZONING ORDINANCE	14-2
3. SIGN REGULATIONS	14-3
4. FENCE REGULATIONS	14-7
5. FLOOD DAMAGE PREVENTION	14-8
TITLE 15. MOTOR VEHICLES, TRAFFIC AND PARKING	15-1
CHAPTER	
1. MISCELLANEOUS	15-1
2. PEDESTRIANS	15-13
3. SPEED LIMITS	15-14

	<u>PAGE</u>
4. TURNING MOVEMENTS	15-15
5. STOPPING AND YIELDING	15-18
6. PARKING	15-20
7. ENFORCEMENT	15-22
TITLE 16. STREETS AND SIDEWALKS, ETC.	16-1
CHAPTER	
1. MISCELLANEOUS	16-1
2. EXCAVATIONS AND CUTS	16-2
TITLE 17. REFUSE AND TRASH DISPOSAL	17-1
RESERVED FOR FUTURE USE	
TITLE 18. WATER AND SEWERS	18-1
RESERVED FOR FUTURE USE	
TITLE 19. ELECTRICITY AND GAS	19-1
RESERVED FOR FUTURE USE	
TITLE 20. MISCELLANEOUS	20-1
CHAPTER	
1. PUBLIC RECORDS	20-1
2. COMPREHENSIVE PLAN	20-12
3. LIABILITY INSURANCE	20-13
4. IDENTITY THEFT POLICY	20-14
5. WILDLIFE HABITAT	20-21
CERTIFICATE OF AUTHENTICITY	CERT-1

TITLE 1

GENERAL ADMINISTRATION¹

TITLE 1

GENERAL ADMINISTRATION²

CHAPTER

1. BOARD OF COMMISSIONERS.
2. MAYOR.
3. CITY MANAGER.
4. RECORDER.
5. CODE OF ETHICS.

¹Charter reference

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

Municipal code references

Utilities: title 18.

Zoning: title 14.

²Municipal 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.

CHAPTER 1

BOARD OF COMMISSIONERS¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Ordinance procedure.
- 1-105. Date of city election.

1-101. Time and place of regular meetings. The board of commissioners shall hold regular monthly meetings on the first Monday of the month at 5:00 P.M. at city hall. If the regular meeting falls on a holiday or a day observed as a holiday, the regular meeting shall be held at the same time and place on the following Monday. Special meetings may be called by the mayor or by any commissioner.

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Approval of minutes of the previous meeting.
- (4) Communications from the mayor.
- (5) Reports from committees, members of the board of commissioners, and other officers.
- (6) Old business.
- (7) New business.
- (8) Citizens' comments.
- (8) Adjournment.

¹Charter references

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

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

1-104. Ordinance procedure.¹ Only the caption of an ordinance, instead of the entire ordinance, shall be read on both readings. Copies of such ordinances shall be available during regular business hours at the office of the recorder and during sessions in which the ordinance has its second reading.

1-105. Date of city election. The date of the city election for shall coincide with county and state elections.

¹Charter reference:
Ordinance procedures: § 6-20-215.

CHAPTER 2**MAYOR¹****SECTION**

1-201. Duties and powers.

1-201. Duties and powers. The mayor shall preside at all meetings of the board of commissioners, sign the journal of the board and all ordinances on their final passage, execute all deeds, bonds, and contracts made in the name of the city, and perform all acts that may be required by the charter, and any ordinances duly enacted by the board of commissioners, consistent with the charter.

¹Charter references

Election: § 6-20-201.

General duties: §§ 6-20-213 and 6-20-219.

May introduce ordinances: § 6-20-213.

Presiding officer: §§ 6-20-209 and 6-20-213.

Seat, voice and vote on board: § 6-20-213.

Signs journal, ordinances, etc.: § 6-20-213.

CHAPTER 3**CITY MANAGER**¹**SECTION**

1-301. Duties and powers.

1-301. Duties and powers. The city manager shall be the chief administrative officer of the city and shall exercise such authority and control over law and ordinance violations, departments, officers and employees, and city purchases and expenditures as the charter prescribes, and shall perform all other duties required pursuant to the charter.

¹Charter references

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

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

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

School administration: § 6-21-801.

Supervision of departments: § 6-21-303.

CHAPTER 4**RECORDER**¹**SECTION**

1-401. To keep record of business, etc.

1-402. To perform general administrative duties, etc.

1-401. To keep record of business, etc. The recorder shall keep a full and accurate record of all business transacted by the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book.

1-402. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of commissioners, the city manager, and the city which are assigned to the recorder. The recorder shall also have custody of, and be responsible for, maintaining all corporate bonds, records, and papers of the city.

¹Charter references

Duties and powers: §§ 6-21-401 through 6-21-405.

Recorder as treasurer: § 6-22-119.

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 and penalty.

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: *Tennessee Code Annotated*, title 2, ch. 10.

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

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

Consulting fee prohibition for elected municipal officials: *Tennessee Code Annotated*, §§ 2-10-122, 124.

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

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

Ouster law: *Tennessee Code Annotated*, § 8-47-101 and the following sections.

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 separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.

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.

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.

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 recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

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.

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.

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.

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.

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.

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 interests in a particular matter.

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

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

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

1-511. Violations and penalty. 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.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. ROAD COMMISSION AND ROAD POLICY.
2. PARKS AND RECREATION COMMISSION.

CHAPTER 1

ROAD COMMISSION AND ROAD POLICY

SECTION

- 2-101. Road commission; establishment.
- 2-102. Membership, composition and terms of office.
- 2-103. Duties and responsibilities.
- 2-104. Street repair policy.
- 2-105. Street acceptance procedure.
- 2-106. Improving streets and installing utilities.
- 2-107. Computing special assessments.
- 2-108. Authority.

2-101. Road commission; establishment. (1) The mayor is hereby authorized to establish a road commission; appoint a chairman of the road commission; specify the road commission's duties, responsibilities and standards; and to establish "road policy" as set forth herein to control the maintenance and/or improvements of existing streets, including installation of applicable utilities and the development and improvement of new streets and street related, public works projects.

(2) The words "road" and "street" as used in this chapter, whether singular or plural, have the same meaning and refer to the public roads of the City of Baneberry, Tennessee; hereinafter, "city." (Ord. #215-12, Dec. 2015)

2-102. Membership, composition and terms of office. (1) The Baneberry Road Commission shall consist of no less than three (3), nor more than five (5) members, duly appointed by the mayor. The chairman shall be named by the mayor. All members must be residents of the City of Baneberry, Tennessee or a non-resident lot owner who is capable of attending meetings and fulfilling the duties and responsibilities listed herein.

(2) Members shall be appointed for a period of four (4) years, with staggered term expirations, so that no more than two (2) members need be replaced in a calendar year. Members may be re-appointed at the expiration of their term at the discretion of the mayor. All members serve at the pleasure of the mayor.

(3) The road commission chairman shall appoint a secretary from amongst the road commission membership.

(4) The road commission shall meet at least quarterly in open session in accordance with Tennessee Open Meetings Act; *Tennessee Code Annotated*, § 8-44-101. The road commission may meet more frequently as needed; or as they vote and choose to meet; or as often as the mayor may so direct. The public shall be notified of meeting schedules and changes thereto, a minimum of one (1) week prior.

(5) The road commission's meetings shall be conducted in the spirit of *Robert's Rules of Order*, newly revised. A simple majority constitutes a quorum and the secretary shall record minutes of the road commission business. Standing orders shall include, at a minimum: a call to order; reports; old business; new business; announcements; and adjournment.

(6) Meeting minutes shall be reviewed, accepted, tabled, or edited at each subsequent, regularly scheduled meeting and a signed copy of the accepted original minutes shall be filed with the city manager.

(7) The road commission chairman shall be seated, ex officio, as a member of the Baneberry Planning Commission as needed to report recommended road projects to the planning commission who provides zoning, subdivision and growth planning, and development oversight recommendations to the board of commissioners, hereinafter referred to as the "city council."

(8) The road commission chairman shall report progress and completion of scheduled and approved improvements and emergency road repairs to the city manager and to the city council at the city's regularly scheduled meetings of the city council.

(9) Members of the road commission should have backgrounds in municipal public works; civil engineering; excavation; road construction and street maintenance; erosion and soil and water pollution control; stormwater management and controls; building construction, and building and equipment maintenance. Given the city's size and demographics and the likelihood that the city's road commission volunteers may lack these backgrounds, it is imperative that the road commission develop and maintain a network of professional and experienced advisors. (Ord. #215-12, Dec. 2015)

2-103. Duties and responsibilities. The Baneberry Road Commission shall:

(1) Regularly inspect the city's accepted public roadways, roadway infrastructure, curbs, sidewalks, drainage ditches, spillways, outfalls, storm sewers, bridges, culverts, laterals, abutments, guard railing, and street signs, roadway markings, traffic control signage, and street lighting to identify and note needed repairs. Reports of needed repairs with estimated repair costs shall be provided to the city manager and reported to the city council at regularly scheduled or as needed, special emergency city meetings.

(2) Identify and facilitate planned and emergency repairs and maintenance of all paved/improved roads previously accepted by the city council.

(3) Develop and coordinate a snow removal plan with the city manager and the city council and initiate and supervise the snow removal plan as and when needed.

(4) Facilitate removal and cleanup of fallen trees, hazardous tree debris, and other traffic hazards found on Baneberry's public roads and property.

(5) Collect data and information to assist the city manager in the preparation of bid specifications and contracts for roadway construction and repair projects including the installation and/or repair of streets, roadways, roadway infrastructure, curbs, sidewalks, drainage ditches, spillways, outfalls, storm sewers, bridges, culverts, laterals, abutments, guard railing, and street signs, roadway markings, traffic control signage, and street lighting and related roadway structure and infrastructure.

(6) Collect data and information to assist the city manager in coordinating installation, maintenance and emergency repair of public utilities including natural gas, water, electricity, sewerage, and communications equipment located under the city streets and in the utility easements located in or adjacent to the city's roadway right-of-way in accordance with each utilities company's policies, practices and procedures.

(7) Assist the city manager in maintaining up-to-date bidder/contractor lists for road projects, road maintenance and public works equipment and services.

(8) Review plans and specifications provided by consultant firms and/or contractors for municipal roadway and other public works projects and advise the city manager and city council.

(9) Ensure implementation and/or compliance with state and federal regulations and applicable city ordinances regarding all public works and engineering activities.

(10) Receive roadway and/or public works inquiries or complaints and attempt to resolve. Maintain records of caller and subject by date and include resolution and feedback provided and apprise the city manager of all such calls.

(11) Advise the city manager, planning commission and city council on all public works activities, progress, costs, problems and completion.

(12) Develop, maintain and sustain a five (5) year rolling road maintenance and development plan with cost estimates for each year's proposed projects.

(13) Maintain the major road plan for the City of Baneberry, Tennessee. A certified copy of the major road plan shall be filed in the Office of the Registrar of Deeds for Jefferson County, Tennessee. (*Tennessee Code Annotated*, §§ 13-4-301 to 13-4-309).

(14) Facilitate road repair and improvements in accordance with this chapter.

- (15) Prepare and submit an annual "roads" budget to the city manager.
- (16) Work with the city manager to file and maintain all road and public works records, instruments, plans, plats, profiles, records of surveys, user manuals, inspection and maintenance records, blueprints, drawings, warranties, and all other property records and papers relating to roads and engineering work.
- (17) Communicate with the Jefferson County Highway Department; the Tennessee Department of Transportation (TDOT); the Municipal Technical Advisory Service (MTAS); and other applicable government and private concerns for advice as needed.
- (18) Apply the guidance detailed in the city's subdivision regulation (currently Ord. #211-5) and zoning ordinance (currently Ord. #212-5) as applicable to all roadway and public works projects.
- (19) Accept and complete other responsibilities, duties and assignments as may be provided by the city manager and/or the city council. (Ord. #215-12, Dec. 2015)

2-104. Street repair policy. (1) It shall be unlawful for anyone to make any changes, perform any street construction or otherwise change the configuration of any public right-of-way, without approval from the road commission and authorization by the city council and city manager.

(2) The directives in section 480, excavations and cuts, of Baneberry's zoning ordinance, Ord. #212-5, shall apply to all emergency street repairs and to all planned street installation and maintenance. Section 480 shall be reviewed and applied in its entirety prior to starting any work on public roads in the City of Baneberry. Among other topics, section 480 covers: permits, fees, deposits or bonds, manner of excavation, barricades and lights, temporary sidewalks, restoration of streets, insurance, supervision, and driveway curb cuts.

(3) The road commission shall determine the location, need and extent of all repairs and shall have the authority to complete repairs if the cost does not exceed the budgeted funds allotted for such repairs. If the cost exceeds the budget, the city council and city manager must approve the project through execution of applicable fiscal procedures.

(4) Requests for proposals, bidding, and contracting of road repairs shall comply with the procedures and cost thresholds established in the most current Baneberry city ordinance establishing purchasing procedures for city officials.

(5) All new roadway projects and all maintenance and repair work on Baneberry's roadways and roadway infrastructure shall be performed in accordance with the applicable sections of Baneberry's Zoning Ordinance, Subdivision Regulations and Purchasing and Contracting Procedures (currently Ord. #93-4).

(6) To the fullest extent practicable, all new roadway projects and infrastructure installations shall be designed and accomplished in accordance with the guidelines found in *Better Site Design: A Handbook for Changing Development Rules in Your Community*; copies of which are maintained in the city offices. (Ord. #215-12, Dec. 2015)

2-105. Street acceptance procedure. (1) Roads previously accepted by the city council are designated public roads and are maintained by the City of Baneberry. Roadways not accepted by the city council are designated private roads and are not maintained by the City of Baneberry.

(2) To be accepted as a public road, newly constructed roads must meet the minimum construction standards illustrated in Appendix B or as otherwise specified in the construction standards specified in the Baneberry ordinance adopted to levy a special assessment to construct or improve a specific road or group of roads.

(3) The city may accept newly constructed roads two (2) years after completion, following an acceptance inspection and recommendations by the city road commission, providing no unresolved construction or repair problems remain, including unrepaired damages to access roads caused by construction equipment used to construct the new road.

(a) Construction or repair problems must be resolved by the responsible road builder, prime contractor and/or subdivision developer prior to acceptance of the road by the City of Baneberry.

(b) The road commission may recommend that an acceptance inspection be conducted by a qualified road construction professional/authority.

(c) Failing such responsible repairs, the road shall remain a private road and the repairs or completion requirements remain an issue to be resolved between the adjacent and affected lot owners and the responsible developer/builder; or, in the case of damage to previously dedicated city roads, between the city and the responsible developer/builder.

(4) Upon acceptance approval by the road commission, the city manager and the city council may, at an open meeting, dedicate and accept the public road by city resolution and amend Appendix A of this chapter (which is located at the end of the chapter).

(5) A register of public roads shall be maintained by the city manager enumerating:

(a) An approved street name as authorized by the Jefferson County Emergency Communication District (911 system).

(b) GPS or survey coordinates of the termini of the new public road. This may be the point where the new road intersects or abuts a previously accepted public road; the centroid of a cul-de-sac or similar

turning terminus; or the current terminus after which the roadway continues as a private road.

(c) Date of dedication and acceptance.

(6) Nothing in this section shall prevent the city council from accepting any road or any right-of-way pursuant to law or Tennessee statutes. (Ord. #215-12, Dec. 2015)

2-106. Improving streets and installing utilities. Prior to the expenditure of any city funds for the construction, installation, or improvement of roads, streets, or rights-of-way, within the corporate limits of the city, such proposed expenditures must be justified and approved in public session by the city council.

(1) Facilitation procedure. Upon receipt of a petition to the city from one (1) or more owners of property, located on a platted right-of-way, requesting that the unimproved or semi-improved private road be graded, graveled, paved or otherwise improved and/or that utilities to be installed, the road commission shall review the request and, in its discretion:

(a) Conduct and document a study to determine the scope, costs and financial feasibility of the project. (See typical scope of work at Appendix D.)

(b) Prepare cost estimates for the entire project including justified contingency funds.

(c) Identify all lots (parcels of real property) that abut, adjoin, or front and that would be improved or positively affected by the proposed road and/or utility improvement.

(d) Determine which assessment type applies to the potential funding of the project (i.e., one hundred percent (100%) or sixty-six percent (66%) funding by affecting lot owners.) See § 2-107.

(e) Calculate special assessments to be levied on each lot on the street to be improved based on which funding method applies:

(i) One hundred percent (100%) funded by those lots positively affected by the proposed road and/or utility improvement. See § 2-107(1).

(ii) Cost share funding where those lots positively affected by the proposed road and/or utility improvement pay two-thirds (2/3) the cost of the project and the city pays one-third (1/3) the cost of the project. See § 2-107(2).

(f) Financial feasibility of a project, (i.e., potential assessment revenue is equal to or greater than the project's projected costs plus contingency).

(g) Keep property owners informed of project progress through direct mail, email, website updates, posted bulletins, etc.

(h) Meet regularly with the planning commission for oversight regarding the city's overall growth plans and controls.

(i) Prepare a written report for the city manager and city council recommending approval/disapproval of the project. City council may amend, reject or adopt.

(j) When the city council is confident of the scope, cost estimates, timelines, and the viability of the project, the city manager shall facilitate public notice and hearing to describe the project and process.

(i) Notice of a proposed adoption of an ordinance authorizing a road and/or utility project shall be given by publishing a notice once a week for two (2) consecutive weeks in some newspaper of general circulation in the municipality and by other notification methods routinely used by the city.

(ii) It shall not be necessary to set out, in full, the ordinance, but the notice shall state the character of the improvement or improvements and the location and terminal points of the improvements.

(iii) The notice shall include the time and place of the public hearing, to be scheduled not less than two (2) weeks from the date of first publication of the notice, at which time the legislative body of the municipality shall meet to hear public comments for and remonstrances or protests against the making of the improvement or improvements.

(A) At the time and place appointed, pursuant to *Tennessee Code Annotated*, § 7-32-105, the legislative body shall meet, and at the meeting, or at the time and place to which the meeting may be adjourned from time to time, all persons whose property may be affected by the improvement or improvements may appear in person or by attorney or by petition and provide comments regarding the making of such improvement or improvements, the material to be used, and the manner of making improvement or improvements. The city council shall consider such comments, objections and protests, if any, and may confirm, amend, modify, or rescind the original ordinance.

(B) Failure to object or protest at the time of confirmation of the original ordinance shall constitute a waiver of any and all irregularities, omissions, and defects in the proceedings taken prior to such a time.

(k) After adoption of the initial ordinance and after the city has determined the entire costs of the project, the city must provide notice of the assessments against property owners, take comments and objections, and hold another hearing on the assessments in accordance with *Tennessee Code Annotated*, §§ 7-32-121 to 7-32-123.

(2) Tennessee Code Annotated, §§ 7-32-121. (a) When the legislative body has completed apportionment, the city manager, or such person as may be designated by the legislative body of the city, shall publish a notice that the assessment list has been completed, and that, on a day named, which shall be not less than ten (10) days after the date of publication of the notice, the city council will consider any and all objections to the apportionment that have been filed in the office of the city manager or person designated.

(b) The notice shall further recite that the lists are in the office of the city manager or person designated, and may be inspected within business hours and during the time specified by anyone interested.

(c) The notice shall also state the general character of the improvement and the terminal points of the improvement.

(3) Tennessee Code Annotated, § 7-32-122. All persons whose property it is proposed to assess for the cost of the improvement or any costs incurred pursuant to *Tennessee Code Annotated*, § 7-32-101(d) may, at any time on or before the date named in the notice, and before the meeting of the legislative body, file in writing with the city manager or person designated any objections or defense to the proposed assessment or to the amount of the assessment.

(4) Tennessee Code Annotated, § 7-32-123. On the date named in the notice, or at any day to which the meeting may be adjourned or to which consideration of the assessments and the objections to the assessment may be postponed, the legislative body shall hear and consider the assessment and objections to the assessment, and, after so doing, shall confirm, modify, or set aside the assessments as shall be deemed right and proper. If any objections to an assessment to pay costs pursuant to *Tennessee Code Annotated*, 7-32-101(d) are made, the confirmation of the assessment shall require the unanimous approval of the members of the legislative body present at the meeting at which the objection is considered. (Ord. #215-12, Dec. 2015)

2-107. Computing special assessments. (1) One hundred percent (100%) funding by affected lot owners. Pursuant to *Tennessee Code Annotated*, § 7-32-118, property owners petitioning the city to make any improvements as authorized under *Tennessee Code Annotated*, title 7, chapter 32 shall bear the entire cost of said improvement or construction. Thus, in the event a petition is presented to the city council averring the willingness of each of the signers to pay their pro rata share of the entire cost of any improvement such as is authorized by *Tennessee Code Annotated*, title 7, chapter 32 of and relieves the municipality from the payment of any part or parts thereof, which petition is signed by the owners of at least seventy-five percent (75%) of the frontage of the lots or parcels of land abutting on such street, highway, or alley or parts thereof, proposed to be thus improved, such petition may be granted by the legislative body; and then proceedings may be had under chapter of the *Tennessee Code Annotated*, title 7, chapter 32 the same in all respects as if the improvement had been begun by the legislative body on its own initiative. Bonds may be

issued and assessment shall be made, except that the assessments shall, in such event, be made for the entire cost of the improvement, and bonds may be issued for the entire cost; provided that no assessment under this section shall in any event exceed on any lot one-half (1/2) of the assessed value of the unimproved lot for municipal taxes for the current year, and all other provisions *Tennessee Code Annotated*, title 7, chapter 32 shall be applicable in respect of any improvement made under *Tennessee Code Annotated*, § 7-32-118, except as in this section otherwise expressly provided.

(2) Sixty-six percent (66%) funding by affected lot owners. Following a request for improvement, a study and recommendation by the road commission, approval by the city council, public notice, and meetings as set out in § 2-106(1)(j) above; all lot owners may be assessed a two-thirds (2/3) percentage of the total cost of the improvements calculated as a percentage of the unimproved property values of all lots on the subject street.

A lot owner's share is calculated as a percentage of the total appraised value of the unimproved real property of all lots on the right-of-way to be improved by a road and/or utility project. The municipality pays the remaining one-third (1/3) of the project's cost.

Example:

(a) The current tax appraised value of the total real property, not including improvements of five (5) example properties on a proposed project street, is three hundred and forty thousand dollars (\$340,000.00) and the estimated cost of this example project is one hundred and twenty-five thousand dollars (\$125,000.00).

Property value	% of total	\$125,000.00	Shared cost	
		Calc. spec. assessment	2/3 share	1/3 share
\$20,000.00	5.88%	\$7,352.94	\$4,901.47	\$2,450.74
\$35,000.00	10.29%	\$12,867.65	\$8,577.57	\$4,288.79
\$75,000.00	22.06%	\$27,573.53	\$18,380.51	\$9,190.26
\$100,000.00	29.41%	\$36,764.71	\$24,507.35	\$12,253.68
\$110,000.00	32.35%	\$40,441.18	\$26,958.09	\$13,479.04
\$340,000.00		\$125,000.00	\$83,325.00	\$41,662.50

(b) The current tax appraised value of the real property, not including improvements of each of the five (5) properties shown in the first column is divided by the total value of all five (5) benefitting

properties to obtain a per-property percentage of the total property values as shown in the column, "% of total."

(c) The estimated project cost one hundred and twenty-five thousand dollars (\$125,000.00) is multiplied by each property owner's percentage to obtain an estimated special assessment calculation, representing one hundred percent (100%) of the project.

(d) Each individual calculated special assessment is divided by three (3) then multiplied by two (2) to derive each owner's two-thirds (2/3) share (the amount each lot owner will be specially assessed).

(e) Lot owners can only be assessed up to fifty percent (50%) of their current tax appraised value of the real property, not including improvements, per *Tennessee Code Annotated*, § 7-32-116.

(i) The aggregate amount of the levy or assessment made against any lot or parcel of land shall not exceed one half (1/2) of the cash value of the unimproved lot.

(ii) By cash value, it is the intent of this section to mean the fair sale price of the lot minus the value of improvements on the lot if sold at a voluntary sale.

(iii) The city or town may pay any part of the levy or assessment against any such lot or parcel of land as may be in excess of one half (1/2) of the cash value of the lot or parcel of land.

With only five (5) benefitting property owners in this example, the individual costs would most likely be prohibitive. However, individual costs go down as the number of benefitting properties increases.

(f) Total cost shall, at a minimum, include, but is not limited to: all surveying, engineering, site planning, tree removal and disposal, excavation, filling, spoil removal, topsoil management, soil erosion and sediment control, infrastructure material and equipment, road materials, bridges, culverts, drain tile laterals, storm drains, outfalls, guard rails, land restoration, signage, utility, administration, labor, insurance, and applicable bond and loan fees.

(g) Any roads project exceeding fifty thousand dollars (\$50,000.00) must be planned by a professional engineering and design firm, competitively hired by the city.

(3) Methods not exclusive. No provision of this section or the policies described herein shall be construed to limit or restrict the city council's discretion, authority or powers to utilize or proceed under any other method of assessment.

(4) Payment. (a) Special assessments are due thirty (30) days after completion of the project and may be paid in full or in six (6) annual payments. No interest will be charged if assessments are paid in full within thirty (30) days after the official completion date of the project.

(b) Payment of special assessment may be made in six (6) annual payments amortized over a five (5) year period at six percent (6%) interest, the first payment due thirty (30) days after completion of the project, and on or before that date, each successive year.

(c) An account will be declared delinquent if a payment is not paid within sixty (60) days past a due date, and the entire balance of the account will become due.

(d) A payment bond will be required from property owners wishing to finance over three (3) properties. (Ord. #215-12, Dec. 2015)

2-108. Authority. (1) The city charter, section 6-19-101(16) provides that the city may: "Construct, improve, reconstruct and re-improve by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways or alleys as provided by *Tennessee Code Annotated*, title 7, chapters 32 and 33."

(2) This section reconstitutes the city road commission and adopts and amends the city's "policy," regarding road construction in the city.

(3) No provision of this section or the policies described herein shall be construed to restrict or limit the city council's discretion, authority or powers pursuant to state law, regarding city streets, construction, improvement, and acceptance/abandonment thereof. (Ord. #215-12, Dec. 2015)

APPENDIX A - Public and Private Roads and Rights-of-way.

1. Improved roads accepted by the City of Baneberrv upon its 1986 incorporation:
 - E. Atherton Ln. (Formerly Atherton Way) (*)
 - Harrison Ferry Rd.
 - Mountain View Ln. (Formerly Mt. View Way) (*) (From Harrison Ferry intersection to Bonnevista intersection)
 - Red Bud Ct.
 - St. Andrews Dr.
 - W. Atherton Ln. (Formerly Atherton Way)

2. Improved roads accepted by the City of Baneberrv after its 1986 incorporation:
 - Back Nine Dr. (Between intersections at Iron Gate and at Mountain View)
 - Back Nine Dr. (From intersection at Mountain View to Hazelwood Ct.)
 - Back Nine Dr. (In Land's End)
 - Bonnevista Dr.
 - Carmel Ct.
 - Cove Ln. (Between the NW and SE legs of Mountain View Ln.)
 - Deer Creek Tr. (Formerly Douglas Dr.) (*)
 - Ferry Crest Way
 - Hazelwood Ct.
 - Hillside Pl. (Formerly Hillside Road) (*)
 - Horizon Dr.
 - Inverness Dr.
 - Iron Gate Dr. (From its intersection at Harrison Ferry Rd. to its intersection with Mountain View Ln. and continuing from its intersection with Treeline Ln. to its intersection with Stoneway Pl.)
 - Kammann Cv. (Formerly Lake Front Cv.) (*)
 - Lake Vista Dr.
 - Lake Front Pl. (Formerly Lake Front Dr.) (*)
 - Mountain View Ln. (Formerly Mountain View Way) (*) (From Bonnevista intersection to Iron Gate Dr. intersection)
 - New Bern Ct.
 - Nina Ferry Pointe Way
 - Pashley Ct.
 - Travelers Cv. (Formerly Bonnevista Cv.) (*)
 - Treeline Ln.
 - Stoneway Ct.

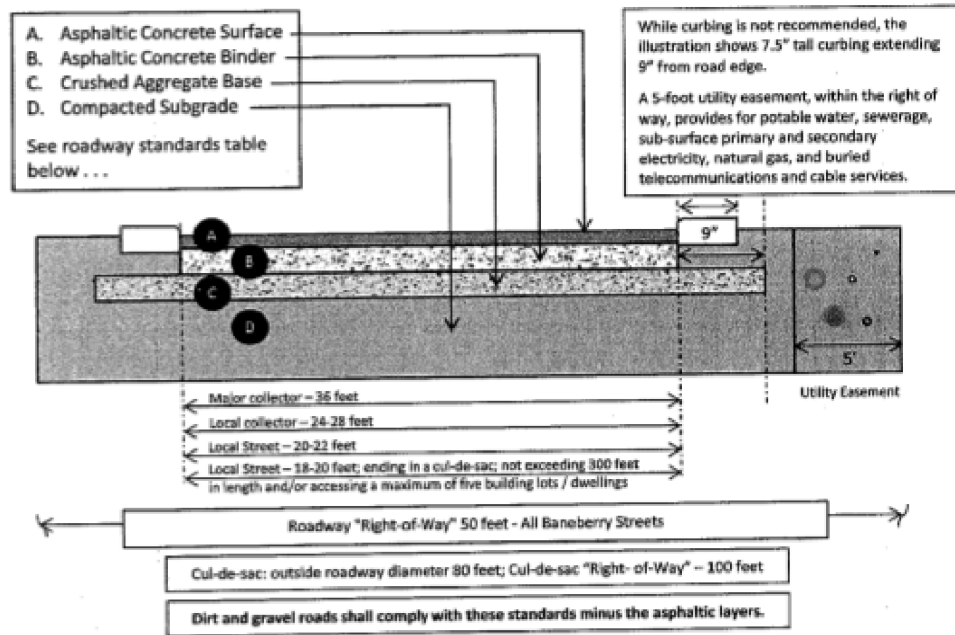
3. Roads in use; not yet fully improved; but accepted by the city:
 - Iron Gate Dr. from the end of the paving NW of the water tower to its intersection with Nina Road
 - Stoneway Ct.
 - Stoneway Pl.
4. Roads in use; not yet improved; nor accepted by the city:
 - Grant Pl.
 - Highrise Dr.
 - Hodges Ct. (Formerly Hickory Ct.) (*)
 - Merrel Ln. (Formerly Laurel Ct.) (*)
 - Rustic Dr. (Formerly Rustic Pine Ct.) (*)
 - Timber Line Ln.
 - Virginia Ct.
 - Watersedge Dr. (*)
5. Roads named on the Master road plan but not in use; not improved; nor accepted by the City of Baneberry:
 - Aspen Ct.
 - Astor Pl.
 - Azalea Ct.
 - Benson Pl.
 - Buckeye Ln.
 - Cabin View Ct.
 - Carriage Ln.
 - Center Ridge Ct.
 - Center Ridge Pl.
 - Cove Ln. (From Mountain View Ln. to terminus near Lake Douglas)
 - Creekside Ct.
 - Devon Ct.
 - E. Skyline Pl.
 - Fortunato Dr.
 - Fox Tr.
 - Hollow Ct.
 - Honeysuckle Ln.
 - Iris Pl.
 - Lakeway Ln.
 - Lee Pl.
 - McCorkle Rd.
 - Meadow Ct.
 - Mossy Hollow Rd.
 - Pine Ct.
 - Primrose Ln.
 - Rebel Pl.
 - Ridge Ct.

- Shady Hollow
- Shady Ln.
- Smokie Ln.
- Spring Hollow Ln.
- Spring Ln.
- Sunny Ct.
- Sunnyview
- Tyler Ct.
- W. Skyline Pl.
- Yacht View Dr.

(* In cooperation with Jefferson County's Emergency Communications (911) District requirements, streets marked "formerly" were re-named in 2003 to the street names listed above. (modified)

APPENDIX B – Road Construction Standards

Road construction standards for acceptance by the City of Baneberry.



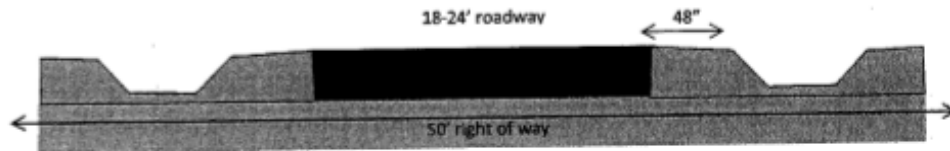
Roadway Standards			
	(A) Surface (Wear Coat)	(B) Binder (Prime Coat)	(C) Base (Compacted Subgrade)
Residential Street	1.5"	2.0"	5.0"
Commercial Street	2.0"	3.0"	8.0"
Industrial Street	2.0"	3.0"	10.0"

MINIMUM Burial of Utilities	
Water:	Natural Gas:
Main 36"	Main 24"
Supply 18"-24"	Service 18"
Electricity:	Sewerage:
Primary 48"	Septic Tank None
Secondary 36"	Collection Box None
Communications 18"	Field Lines 12"

The applicable utility companies will either install or provide contractor oversight and approval inspections of these utilities.

APPENDIX B – Road Construction Standards, pg. 2

Storm water drainage (typical). This illustration shows a concept of storm water drainage.



Actual drainages to be designed by road engineer based on topographical and hydrological conditions.

Use of Right of Way (examples)

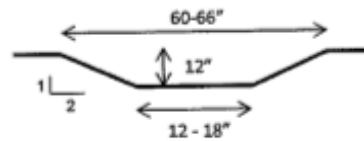
50' right of way
 Minus 24 foot carriage way
 Minus two 4-foot shoulders
 Minus two 5.5 foot storm drains
 Leaves 7 feet of right of way (3.5' per road side)
 (8-feet if 5 foot storm drain)

50' right of way
 Minus 18 foot carriage way
 Minus two 4-foot shoulders
 Minus two 5.5 foot storm drains
 Leaves 13 feet of right of way (3.5' per road side)
 (14-feet if 5 foot storm drain)

Notes:

Five (5) feet of easement is required for buried utility equipment.

Reduced shoulder allowance and / or reduced storm water drainage provides additional right of way.



Appendix C – Major Road Plan (approximation) – City of Baneberry, TN



APPENDIX D - Typical scope of a road project.

The scope outlined herein, does not apply to the scope of a subdivision developer, nor is this example representative of every step and decision necessary to accomplish a road improvement project.

1. Receive request or petition to improve a road.
2. Conduct cursory site inspection to note obvious needs and obstacles.
3. Identify all affected properties by owner and the current tax appraised value of the real property and improvements.
4. Obtain rough estimates for project costs.
5. Compare rough cost estimate to 50% of the total appraised value of the real property and improvements.
6. Determine to proceed or stop. Apprise requestor(s).
7. Draft city ordinance to levy a special assessment.
8. Post notice of public hearings.
9. Conduct public hearings.
10. Prepare detailed plan of work and timelines.
11. Prepare and issue competitive Requests for Proposals (RFPs) for:
 - (a) Surveying.
 - (b) Site planning/engineering.
 - (c) Tree removal and disposal.
 - (d) Excavation /filling /spoil removal /topsoil management
 - (i) Soil erosion and sediment control.
 - (e) Infrastructure materials, equipment and installation.
 - (i) Bridges.
 - (ii) Culverts.
 - (iii) Drain tile laterals.
 - (iv) Storm drains.
 - (v) Outfalls.
 - (vi) Utilities.
 - (vii) Road materials and installation.
 - (f) Inspections.
 - (g) Guard rail and signage materials and installation.
 - (h) Embankment and soil restoration.
12. Calculate costs for administration, insurance, loan fees, etc.
13. Calculate true total project costs plus contingency.
14. Obtain funding and deposit in project fund.
15. Obtain proof of contractor bonds and insurances.
16. Award contracts.
17. Apprise requestor(s) of project progress.
18. Provide regular and frequent project oversight and quality control checks.
19. Pay approved invoices.
20. Pay final invoices.
21. Obtain warranty work as/if needed.

22. Levy calculated special assessments.
23. Conduct acceptance inspections and quality samples after two (2) years.
24. Accept and dedicate road, as applicable.

CHAPTER 2

PARKS AND RECREATION COMMISSION

SECTION

2-201. Establishment.

2-202. Membership, terms of office.

2-201. Establishment. There shall be established a parks and recreation commission whose purpose is to seek governmental or private grants or funds to establish structures and/or outdoor areas to be used to provide park(s) and recreational uses, to seek available real property upon which to construct said structures and/or outdoor areas, and to make recommendations to the board of commissioners as to the expenditures of funds to complete the recreational projects. The commission shall also recommend recreational programs, recommend uses for recreational and community facilities, and stimulate interest in beautification of the city, which meet the needs of the city. The commission shall implement all programs upon which the city commissioners approve. (1999 Code, § 2-201)

2-202. Membership, terms of office. The parks and recreation commission shall increase its membership from five (5) to seven (7) members of which one (1) member shall be a city commissioner. The six (6) non-city commissioners shall be appointed by the mayor for four (4) year terms to be staggered annually and the city commissioner shall serve for the period in which he is elected. All members of the park and recreation commission shall serve as such without compensation. The initial non-commissioners shall be appointed by the mayor to serve terms of four (4), three (3), two (2) and one (1) respectively. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (Ord. #213-4, May 2013)

TITLE 3
MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1**CITY JUDGE****SECTION**

- 3-101. City judge designated.
- 3-102. Vacancy of city judge.
- 3-103. Power to enforce ordinances.

3-101. City judge designated. The officer designated in accordance with *Tennessee Code Annotated*, § 6-21-501 to handle judicial matters within the City of Baneberry and who shall preside over city court at the will of the city council shall be an attorney who is not less than thirty (30) years of age and a resident of Jefferson County, Tennessee who is licensed to practice law in the

¹Charter references

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

City judge:

- Appointment and term: § 6-21-501.
- Jurisdiction: § 6-21-501.
- Qualifications: § 6-21-501.

City court operations:

- Appeals from judgment: § 6-21-508.
- Appearance bonds: § 6-21-505.
- Docket maintenance: § 6-21-503.

Fines and costs:

- Amounts: §§ 6-21-502, 6-21-507.
- Collection: § 6-21-507.
- Disposition: § 6-21-506.

State of Tennessee and is appointed by the city council to serve as the city judge. (Ord. #216-6, May 2016)

3-102. Vacancy of city judge. In the event of incapacity, death, or other vacancy in the office of city judge, the city commission shall appoint a city judge at its next regular or special meeting. A two-thirds (2/3) vote of the commission shall be required to fill any such vacancy. (Ord. #216-6, May 2016)

3-103. Power to enforce ordinances. The judge has the power and authority to:

- (1) Impose fines, costs, and forfeitures, and punish by fine for violation of city ordinances;
- (2) Preserve and enforce order on such city judge's court;
- (3) Enforce the collection of all fines, costs, and forfeitures imposed by such city judge; and
- (4) The city judge may remit, with or without condition, fines and costs imposed for violation of any ordinance or charter provision. (Ord. #216-6, May 2016)

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. City court established.
- 3-202. Maintenance of docket.
- 3-203. Court session.

3-201. City court established. There shall be established a city court presided over by a city judge who shall have jurisdiction over all cases arising from the laws and ordinances of the City of Baneberry, Tennessee. (Ord. #216-6, May 2016)

3-202. Maintenance of docket. The court clerk shall keep a complete docket of all cases coming before him in his judicial capacity. The docket shall include for each case the name of the defendant, the alleged offense or violation, citation/summons number, disposition, including any fines costs, and any additional information which may be relevant. (Ord. #216-6, May 2016, modified)

3-203. Court session. City court shall be in session quarterly, four (4) times per year, on the second Thursday of the months of Feb., May, Aug., and Nov. at 6:00 P.M., at the Baneberry Community Center, beginning in the month of July 2016. Every person charged with violating a municipal ordinance shall be entitled to a hearing and disposition of his case at the next session of city court after the charge. (Ord. #216-6, May 2016)

CHAPTER 3

SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas

3-301. Issuance of summonses. When a complaint is made to a city police officer or code enforcement officer of an alleged violation of an ordinance of the city, the police officer/code enforcement officer shall, if the circumstances so warrant, issue a summons to the alleged offender to appear before the city court at a time specified therein to answer charges against him. The summons shall also set forth a description of the offense charged. (Ord. #216-6, May 2016)

3-302. Issuance of subpoenas. The city judge shall be empowered to issue subpoenas upon request of a party in interest of matters coming before the court. (Ord. #216-6, May 2016)

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Fines and costs imposed.

3-402. Appeals of city court judgment.

3-401. Fines and costs imposed. The city judge shall be empowered to impose fines and costs against an offender upon proper finding of a violation of an ordinance of the city. Said fines shall be paid into the treasury of the city. The city judge is empowered to enforce collection of such fines and costs, imposed by him.

(1) No fine shall exceed fifty dollars (\$50.00).

(2) The bill of costs shall be fifty dollars (\$50.00) per case and shall be taxed in the same manner and amounts as allowed in the court of general sessions for similar work in state cases.

(a) The state litigation tax of thirteen dollars and seventy-five cents (\$13.75) per case shall be collected.

(b) The local litigation tax of thirteen dollars and seventy-five cents (\$13.75) is hereby imposed in all cases in which the state litigation taxes are collected. (Ord. #216-6, May 2016)

3-402. Appeals of city court judgment. Any judgment of the city judge may be appealed to the circuit court of the county in which the city sits. Appeal must be filed within ten (10) days of the judgment, Sundays and holidays excluded, and there must be a bond approved by the city judge not to exceed two hundred and fifty dollars (\$250.00) for good and sufficient security of the offender's appearance or prosecution of appeal. Such bond may be made by cash deposit or by surety bond issued by an insurance company authorized to issue such bonds or by property bond signed by two (2) property owners within the county as sureties for such appeal. (Ord. #216-6, May 2016)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

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

CHAPTER 1

PERSONNEL REGULATIONS¹

SECTION

4-101. Personnel rules and regulations.

4-101. Personnel rules and regulations. Personnel rules and regulations dated 2015 (as amended 2019) are hereby adopted in their entirety and shall serve as the revised personnel policies and procedures governing employment with the City of Baneberry, Tennessee. Each employee shall be given a copy of the revised personnel policies and procedures. (Ord. #219-5, March 2019)

¹The personnel rules and regulations for the City of Baneberry, as amended from time to time, are available in the office of the recorder.

CHAPTER 2

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

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

4-201. Purpose. (1) The purpose of this chapter and referenced regulations is to bring the city into compliance with *Tennessee Code Annotated*, § 6-54-901-907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

(2) To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. (Ord. #216-5, May 2016)

4-202. Enforcement. The city manager or his designee shall be responsible for the enforcement of these travel regulations. (Ord. #216-5, May 2016)

4-203. Travel policy. (1) In the interpretation and application of this chapter the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter.

"Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

The city manager may make exceptions for unusual circumstances. Expenses considered excessive will not be allowed.

(7) Claims of fifteen dollars (\$15.00) or more for travel expense reimbursement must be supported by dated, original itemized receipts, and proof of payment for lodging, vehicle rental, phone calls, public carrier travel, conference or similar fees, and other reimbursable costs. Credit card payment forms or statements alone are not considered itemized receipts for transportation tickets, lodging or car rental.

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

(9) Mileage and motel expenses for training, conferences, workshops, seminars, etc., incurred within the city are not ordinarily considered eligible expenses for reimbursement.

(10) Authorized, Privately Owned Vehicle (POV) mileage incurred by city officials and employees in the conduct of city business is authorized. Mileage between home and work is not authorized for reimbursement. As with all expenditures of public funds, travel mileage in the conduct of city business must be planned and consolidated to accomplish business efficiently while minimizing mileage expense.

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

(12) The local travel expense report will be used to document all authorized local mileage. (Ord. #216-5, May 2016, modified)

4-204. Travel reimbursement rate schedule. (1) Authorized travelers shall be reimbursed according to the current tax year federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted.

(2) The municipality may pay directly to the provider for expenses such as meals, lodging and registration fees for conferences, conventions, seminars and other education programs. (Ord. #216-5, May 2016)

4-205. Administrative procedures. (1) Travel requests. To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the limits of the city's travel policy. All costs associated with the travel should be reasonably estimated and shown on the travel authorization form. An approved authorization form is needed before advanced expenses are paid or travel advances are authorized. A copy of the conference program/training agenda/etc., if applicable, should be attached to the form. If the program/agenda is not available prior to the travel, submit it with the reimbursement form.

Travel proposed by and for the city manager must be pre-approved by a commissioner.

(2) Travel documentation. It is the responsibility of the authorized traveler to:

- (a) Accurately describe the travel on a travel expense statement form.
- (b) Certify the accuracy of the travel expense statement.
- (c) Record, on the travel expense statement, all direct payments and travel advances made by the city.
- (d) File the travel expense statement, necessary supporting documents, and original receipts with the city manager.

The travel expense statement (form) should be filed with the city manager within ten (10) days of return, but no later than the end of the month. Travel ending near the end of the month shall be reported as soon as practicable upon completion of travel and return to duty.

(3) Transportation. (a) All potential costs should be considered when selecting the modes of transportation. For example, airline travel may be cheaper than automobile when time away from work and increased meal and lodging costs are considered. When time is important, or when the trip is so long that other modes of transportation are not cost-beneficial, air travel is encouraged.

If the traveler goes outside the state by means other than air, reimbursement will be limited to air fare at tourist or economy class, ordinary expenses during the meeting dates, and one (1) day's meals and motel before and after the meeting. The traveler will be required to take annual leave for any additional time taken beyond the day before and the day after the meeting dates.

Exceptions: When the traveler extends the trip with personal time to take advantage of discount fares, the reimbursement will be limited to the lesser of:

- (i) The actual expenses incurred; or
- (ii) The amount that would have been incurred for the business portion only. The calculations for the business portion of the trip must be made using the least expensive rates available.

All expenses and savings associated with extending the trip must be submitted with the travel expense statement form.

(b) Air. When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The traveler should request conference, government, or weekend rates, whichever is cheaper, when making lodging or rental car reservations. The city will pay for tourist or economy class air travel. The traveler should get the cheapest reasonable fare and take advantage of "super saver" or other discount fares. Airline travel can be paid by direct billing to the city.

Mileage credits for frequent flyer programs accrue to the individual traveler. However, the city will not reimburse for additional expenses, such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class - for travelers to accumulate additional mileage or for other personal reasons.

The city will not reimburse travel by private aircraft unless authorized in advance by the city manager.

(c) Rail or bus. The city will pay for actual cost of ticket.

(d) Vehicles. Automobile transportation may be used when a common carrier cannot be scheduled, when it is more economical, when a common carrier is not practical, or when expenses can be reduced by two (2) or more city employees traveling together.

(i) Personal vehicle. Employees should use city vehicles when possible. Use of a private vehicle must be approved in advance by the city manager. The city will pay a mileage rate not to exceed the rate allowed by the federal schedule. The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official city business will be reimbursed.

However, mileage in excess of the Rand-McNally mileage must be documented as necessary and business-related. If an indirect route is taken, the Rand-McNally mileage table will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two (2) or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide adequate insurance to hold harmless the city for any liability from the use of the private vehicle.

In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available air fare and associated air fare travel costs.

Travelers will not be reimbursed for automotive repair or breakdowns when using their personal vehicle.

(ii) City vehicle. The city may require the employee to drive a city vehicle, if a city vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business.

The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided. Out-of-town repair cost to the city vehicle in excess of one hundred dollars (\$100.00) must be cleared with the city manager before the repair is authorized.

(iii) Rental cars. Use of a rental car is not permitted unless it is less expensive or otherwise more practical than public transportation. Car rental must be approved in advance by the city manager.

Always request the government or weekend rate, whichever is cheaper. Anyone who uses a rental car for out-of-state travel must obtain liability coverage from the vendor.

(A) Fines for traffic or parking violations will not be reimbursed by the city.

(B) Reasonable tolls will be allowed when the most direct travel route requires them.

(iv) Taxi, limousine, and other transportation fares. When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Hotel/motel/convention center courtesy vans, bus, cab or limousine service to and from airports should be used when available and practical. The city will reimburse mileage for travel to and from the local airport and parking fees, provided such costs do not exceed normal taxi/limousine fares to and from the airport. Receipts are required.

For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Remember, original receipts are required for claims of five dollars (\$5.00) or more. Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and not reimbursable.

Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense reimbursement form, claiming the destination and amount of each fare.

(4) Lodging. (a) The amount allocated for lodging shall not ordinarily exceed the maximum per diem rates authorized by the current federal rate schedule.

The federal travel register provides guidelines for determining the maximum that can be reimbursed for lodging. IRS Publication 463 lists the maximum reimbursable rates for hotel rooms plus appropriate taxes.

(b) Original lodging receipts must be submitted with the reimbursement form. Photocopies are not acceptable.

(c) If a traveler exceeds the maximum lodging per diem, excess costs are the responsibility of the traveler.

(d) If the best rate is secured, and it still exceeds the maximum lodging per diem, the city manager may authorize a higher reimbursement amount.

Note: Even if it costs more, travelers may be allowed to stay at the officially designated hotel of the meeting; however, more moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(e) If two (2) or more city employees travel together and share a room, the lodging reimbursement rate will be the maximum of two (2) single rooms. If an employee shares a room with a non-employee, the actual cost will be allowed up to the maximum reimbursable amount. The receipt for the entire amount must be submitted with the travel expense statement.

(5) Meals. Receipts are not required for meals. The authorized traveler may be reimbursed the daily amount based on the rate schedule and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, porters, and incidental expenses. The authorized traveler will not be reimbursed more than this.

Whether meals may be claimed depends on when the traveler leaves and returns to the official station. The traveler's official station is home or work, whichever produces the least cost to the city. When partial day travel is involved, the current per diem allowance is determined as follows:

MEAL	IF DEPARTURE BEFORE:	IF RETURN AFTER:
Breakfast	7:00 A.M.	8:00 A.M.
Lunch *	11:00 A.M.	1:30 P.M.
Dinner **	5:00 P.M.	6:30 P.M.

* Generally, lunch will not be reimbursed unless overnight travel is involved. Lunch may be reimbursed if departure is before 11:00 A.M., and the employee is eligible to be reimbursed for dinner.

** When overnight travel is involved, dinner reimbursement is authorized regardless of departure time.

Regardless of which reimbursement rate the city uses, the amounts include tip, gratuity, etc.

The hour and date of departure and return must be shown on the expense reimbursement form.

The excess cost of an official banquet may be allowed provided proper documentation or explanation is submitted with the travel expense statement.

If a meal is included as part of a conference or seminar registration, then the allowance for that meal will be subtracted from the total allowance for the day.

For example, if a dinner is included as part of the conference fee, the maximum meal allowance for the day should be reduced by the allowed dinner amount.

(6) Miscellaneous expenses. (a) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals, lodging, and registration fees. Registration fees should be specified on the original travel authorization form and can include a request for pre-registration fee payment.

(b) The traveler may be reimbursed for personal phone calls while on overnight travel, but the amount will be limited to five dollars (\$5.00) per day.

(c) A four dollar (\$4.00) allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(d) Laundry, valet service, tips, and gratuities are considered personal expenses and are not reimbursable.

(e) For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt.

(7) Entertainment. The city may pay for certain entertainment expenses provided that:

(a) The entertainment is appropriate to and in the conduct of city business;

(b) The entertainment is approved in advance by the city manager or in the case of travel by the city manager; the expense is approved in advance by the city council;

(c) The nature of the entertainment and the group or individuals involved are identified in an attachment to the travel reimbursement claim; and

(d) Documentation is attached to the travel expense statement to support the entertainment expense claims.

Examples: Entertainment that may be approved might include:

(i) Added-cost activity or outing during a conference, workshop or training where the authorized traveler's city-related knowledge and or skills may be enhanced and/or networking opportunities that will benefit the city exist.

(ii) Added-cost banquet or keynote presentation that where the authorized traveler's city-related knowledge and or skills may be enhanced.

(e) Entertainment costs that would not be approved:

(i) Any claimed recreational expense that does not directly benefit the city or that may reflect negatively on the authorized traveler and or the city.

(ii) Golf outings, spa services, raft trips, bowling costs, sporting events; movies, theater/ concert costs, bar expenses, fees at adult clubs, are not authorized travel expenses, regardless to "networking opportunities" that might be claimed.

(iii) An example where one (1) of these may be authorized would be an employee of a city-owned and operated parks and recreation golf course attending an added-cost golf outing structured to demonstrate new technology, equipment, maintenance, etc.

Bottom line: Any cost for recreational activity, not approved in advance and voluntarily incurred by the authorized traveler where the sole purpose is personal relaxation or recreation shall not be a reimbursable expense.

Pay-for-TV movies, channels, or shows and courtesy bar costs associated with room rental are not authorized travel expenses, regardless to "networking opportunities" that might be claimed.

To request reimbursement for authorized entertainment expenses, be sure to include with the expense reimbursement form:

(A) Required receipts. All requests must be supported by original receipts from the vendor (restaurant, caterer, ticket office, etc.). Reasonable tips and gratuities included on the receipt by the vendor are reimbursable.

(B) A disclosure and explanation statement, explaining the purpose of the entertainment and identifying the group and the number of people entertained (or individual names listed if not a recognized group).

If the city manager is the person filing the claim, it must be approved by the governing board before reimbursement is authorized.

(8) Travel reconciliation. (a) Within ten (10) days of return from travel, or by the end of the month, the traveler is expected to complete and file the travel expense statement. It must be certified by the traveler that the amount due is true and accurate. Original lodging, travel, taxi, parking, and other receipts must be attached.

If the city provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city pre-payments indicated.

The balance due the traveler or the refund due the city should be clearly shown - below the total claim on the form or in a cover memo attached to the front of the form.

(b) If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the city for that difference.

(c) The city manager will address special circumstances and issues not covered in this chapter on a case-by-case basis.

(9) Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (Ord. #216-5, May 2016, modified)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Adopted by reference.

4-201. Adopted by reference. The City of Baneberry herein adopts *Tennessee Code Annotated*, title 50, chapter 3, the Occupational Safety and Health Act of 1972, as if set out verbatim herein.

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. PURCHASING PROCEDURES.
3. PRIVILEGE AND BUSINESS TAX.
4. PROPERTY TAX COLLECTION.
5. DEBT MANAGEMENT POLICY.
6. USE OF COLLECTION AGENCY.
7. HOTEL/MOTEL TAX.

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

- 5-101. Official depository for city funds.
5-102. Fiscal year of the city.

5-101. Official depository for city funds. First People's Bank is hereby designated as the official depository for funds of the City of Baneberry, Tennessee.² (1999 Code, § 5-101, modified)

5-102. Fiscal year of the city. The fiscal year of the city is hereby fixed and determined to commence on the first day of July of each year.³ (1999 Code, § 5-102)

¹Charter reference

Finance and taxation: title 6, chapter 22.

²Charter reference

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

³Charter reference

Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.

CHAPTER 2

PURCHASING PROCEDURES

SECTION

- 5-201. Purchasing agent.
- 5-202. General procedures.
- 5-203. Rejection of bids.
- 5-204. Conflict of interest.
- 5-205. Purchasing from employee.
- 5-206. Sealed bid requirements - \$10,000.00 or greater.
- 5-207. Sealed bid procedures.
- 5-208. Competitive bidding- \$4,000.00 - \$10,000.00.
- 5-209. Purchases and contracts less than \$4,000.00.
- 5-210. Bid deposit.
- 5-211. Performance and payment bonds.
- 5-212. Record of bids.
- 5-213. Considerations in determining bid award.
- 5-214. Statement when award not given to low bidder.
- 5-215. Award in case of tie bids.
- 5-216. Back orders.
- 5-217. Emergency purchases.
- 5-218. Waiver of competitive bidding.
- 5-219. Property control.
- 5-220. Disposal of surplus property.
- 5-221. Unsuitable for public use, sale or exchange.
- 5-222. Items estimated to have monetary value.
- 5-223. Surplus property painted with city colors or with city emblems.
- 5-224. Recycling.
- 5-225. Items consumed in the course of work or thought to be worthless.
- 5-226. Employees participating in the disposal of surplus property.
- 5-227. Surplus property.
- 5-228. Methods of transfer and disposition.
- 5-229. Transfer and disposition policy.
- 5-230. Disciplinary actions.
- 5-231. Procedures.
- 5-232. Definitions.
- 5-233. Funds appropriated and available.
- 5-234. Forms and procedures.
- 5-235. Standards of conduct.

5-201. Purchasing agent. The city manager, or an officer of the city designated by the city manager, shall be the purchasing agent for the city.

Except as otherwise provided in this policy, all supplies, materials, equipment and services of any nature whatsoever shall be approved and acquired by the purchasing agent or his representative.

The purchasing agent shall be responsible for:

(1) The purchase of supplies, materials and equipment and contractual services required by any commission, office, department or agency of the city.

(2) The storage and distribution of all supplies, materials and equipment required by any commission, office, department or agency of the city.

(3) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any commission, office, department or agency of the city. Such specifications shall be definite and certain and shall permit competition.

(4) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in store rooms or warehouses.

(5) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders list." The purchasing agent shall have authority to temporarily remove the names of vendors who have defaulted on their quotations, attempted to defraud the city, or who have failed to meet established specifications or delivery dates.

(6) Obtaining as full and open competition as possible on all purchases, contracts and sales. (Ord. #216-2, March 2016)

5-202. General procedures. Competitive bids on all supplies, materials, equipment, services and contracts for public improvements, except those specified elsewhere in this policy, shall be obtained, whenever practicable, and the purchase or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed by this policy. (Ord. #216-2, March 2016)

5-203. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees, or other monies of whatever nature that may be due the city by said vendor or contractor. (Ord. #216-2, March 2016)

5-204. Conflict of interest. All officials, officers, employees and/or volunteers who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially detrimental or conflictual to the best interests of the city, and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant interest.

No member of the city council, officer, employee or volunteer of the city shall have a financial interest in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, material, supplies, equipment, or services; except when a majority of the city council determines such exception is in the best interest of the city; provided, that no council member whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any officer, employee or volunteer of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the city shall render the contract voidable by the city manager or the city council. (Ord. #216-2, March 2016)

5-205. Purchasing from employee. It shall be the policy of the city to not purchase any goods or service from any city official, employee, volunteer, or a close relative of any official, employee or volunteer without prior unanimous approval of the city council. (Ord. #216-2, March 2016)

5-206. Sealed bid requirements - \$10,000.00 or greater. On all purchases and contracts estimated to be in excess of ten thousand dollars (\$10,000.00), except as otherwise provided for in this policy, formal sealed bids shall be required to be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit the bids for award by the city council at the next regularly scheduled council meeting or at a specially-called council meeting together with the recommendation as to the lowest responsible bidder. No contract or purchase shall be subdivided to avoid the requirements of this section.

Prior to advertising an invitation to bid, the city manager shall verify applicable account balances for all purchases over ten thousand dollars (\$10,000.00).

A notice inviting bids shall be published once in a newspaper of general circulation in Jefferson County at least five (5) days before the last day of the bids. The newspaper notice shall contain a general description of the article(s) to be purchased or services to be contracted; list the final bid due date and time; state where the written specifications may be obtained; and list the time and place where city council will open the bids.

In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid. This may be accomplished verbally, or by direct delivery, parcel deliver, U.S. mail, e-mail, and/or by posting notice in a public place. (Ord. #216-2, March 2016)

5-207. Sealed bid procedures. Procedure for sealed bids shall be as follows:

(1) Sealing. Bids shall be submitted to the purchasing agent, prior to the date and time deadline, securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.

(2) Opening. Bids shall be opened in public at the time and place stated in the public notices.

(3) Tabulation. A tabulation of all bids received shall be available for public inspection.

A written record shall be required for all sealed-bid purchases and available for inspection showing how and when sealed bids were obtained, when opened, who received award, and the basis of the award (selection decision). (Ord. #216-2, March 2016)

5-208. Competitive bidding - \$4,000.00 - \$10,000.00. All purchases of supplies, equipment, services and contracts estimated to be in excess of four thousand dollars (\$4,000.00) but less than ten thousand dollars (\$10,000.00), shall be by competitive bidding and may be awarded to the lowest responsible bidder. Before any purchases or contracts exceeding four thousand dollars (\$4,000.00) are made, the purchasing agent shall give ample time for competitive bidding. A written record shall be required and available for inspection showing that competitive bids were obtained by direct mail, telephone bids, or public notice; who received award; and the basis of the award (selection decision). Such bids shall be received by the purchasing agent who shall award the bid to the lowest responsible bidder. No contract or purchase shall be subdivided to avoid the requirements of this section.

Prior to a purchase or contract obligation, the city manager shall verify account balances for all purchases over one thousand dollars (\$1,000.00) and less than ten thousand dollars (\$10,000.00). (Ord. #216-2, March 2016)

5-209. Purchases and contracts less than \$4,000.00. The purchasing agent is expected to obtain the best prices and services available for purchases and contracts that are less than four thousand dollars (\$4,000.00), but is exempted from the formal bid requirements mentioned in the two (2) previous sections. (Ord. #216-2, March 2016)

5-210. Bid deposit. When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The purchasing agent shall determine an appropriate deposit amount that will ensure that the winning bidder will undertake the contract under the terms at which they bid. Unsuccessful bidders shall be entitled to return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his part to enter into a contract with the city within ten (10) days after the award. (Ord. #216-2, March 2016)

5-211. Performance and payment bonds. The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interests of the city in accordance with the penalties provided by *Tennessee Code Annotated*. The purchasing agent may also require a payment bond and a labor and material bond, before entering into a contract, in such form and amount as he or she shall deem necessary to protect the best interest of the city. (Ord. #216-2, March 2016)

5-212. Record of bids. The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, including a list of the bidders; the amount bid by each; and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the city manager's office.

The bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the advertisement.
- (3) A copy of the specifications.
- (4) A list of bidders and their responses.
- (5) A copy of the purchase order.
- (6) A copy of the invoice. (Ord. #216-2, March 2016)

5-213. Considerations in determining bid award. (1) The ability, capacity and skill of the bidder to perform the contract or provide the material or service required.

- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgement, experience, and efficiency of the bidder.
- (4) The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
- (5) The quality of performance of previous contracts or services.
- (6) The sufficiency of the financial resources and ability of bidder to perform the contract or provide the service.
- (7) The ability of the bidder to provide future maintenance and service for the use of supplies or services contracted.
- (8) Terms and conditions stated in the bid.
- (9) Compliance with specifications.
- (10) Total cost of the bid including expected life, maintenance costs, and performance. (Ord. #216-2, March 2016)

5-214. Statement when award not given to low bidder. When the award for purchases and contracts in excess of four thousand dollars (\$4,000.00) is not given to the lowest bidder, a full and complete statement of the reasons

for placing the order elsewhere, shall be prepared by the purchasing agent or department head and filed with all the other papers relating to the transaction. (Ord. #216-2, March 2016)

5-215. Award in case of tie bids. (1) If all bids received are for the same amount, quality service being equal, the purchase contract shall be awarded to a local bidder.

(2) Where a local vendor has not bid or where his bid is not the lowest tie bid, the purchasing agent shall award the purchase or contract to one (1) of the bidders by drawing lots in public. (Ord. #216-2, March 2016)

5-216. Back orders. All orders must be completed, whether through complete fulfillment of the purchase order or through closing the purchase order with items not received. The non-delivered items will be cancelled from the purchase order and a check will be issued to the equal amount of the purchase order. (Ord. #216-2, March 2016)

5-217. Emergency purchases. When, in the judgement of the purchasing agent, an emergency exists, the purchasing provisions of this policy may be waived; provided, however, that the purchasing agent shall report the "emergency" purchases/contracts to the city council at the next regular council meeting stating the item; the amount paid; from whom the purchase was made; and the nature of the emergency. Poor planning and management do not constitute an emergency. (Ord. #216-2, March 2016)

5-218. Waiver of competitive bidding. Upon recommendation of the city manager, that it is clearly to the advantage of the city, to not purchase or contract by competitive bidding, the requirements of competitive bidding may be waived under the following circumstances.

(1) **Single source of supply.** The availability of only one (1) vendor of a required product or service within a reasonable distance of the city as determined after a documented, thorough search by the using department or the purchasing department. A written, "sole-sourcing" statement must be filed verifying the reality of a single-source supplier.

(2) **State department of general services.** Purchases that are made through or in conjunction with the state department of general services (state contracts). Municipalities may take advantage of these so-called "state prices" regardless of any charter or general law requirements.¹ These bids may be viewed on the file received from the state.

¹State law reference

Tennessee Code Annotated, § 12-3-1001.

(3) Purchases from other governments. Any municipality may purchase from any federal, state or local government unit or agency, second-hand articles of equipment or other materials, supplies, or commodities. The purchasing agent, all department heads, and city staff will be authorized to sign for these purchases. These purchases may be made without competitive bidding and public advertising regardless of charter requirements.¹

(4) Purchases from non-profit corporations. Any purchase from any non-profit corporation whose sole purpose is to provide goods and services specifically to municipalities, such as local government data processing.²

(5) Purchases from Tennessee state industries.

(6) Purchases from instrumentalities created by two (2) or more co-operating governments.³

(7) Certain insurance. Municipalities may purchase tort liability insurance, without competitive bidding from the Tennessee Municipal League (TML), or any other plan authorized and approved by any organization of government entities representing cities and counties.⁴

(8) Investments in or purchases from the pooled investment fund established, *Tennessee Code Annotated*, § 9-17-105.

(9) Purchases of fuels, fuel products, or perishable commodities.

(10) Professional service contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, and consultants required by the city, whose fee is one thousand dollars (\$1,000.00) or more, shall be evidenced by written contract. The contract will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. Competitive bidding shall be prohibited for such services.⁵

(11) City council approval. In those cases where city council indicates, by formal unanimous resolution of those present at the meeting, based on the recommendation of the city manager, that it is clearly to the advantage

¹State law reference
Tennessee Code Annotated, § 12-2-1003.

²State law reference
Tennessee Code Annotated, § 6-56-302.

³State law reference
Tennessee Code Annotated, § 12-9-101.

⁴State law reference
Tennessee Code Annotated, § 29-20-407.

⁵State law reference
Tennessee Code Annotated, § 29-20-407.

of the city not to contract with competitive bidding, noncompetitive purchasing/contracting may be authorized. (Ord. #216-2, March 2016)

5-219. Property control. A physical inventory of the city's fixed assets must be taken annually.

A system of fixed asset records provides a simple method of positive identification for each piece of equipment and:

- (1) Prevents the purchase of unneeded and duplicate assets;
- (2) Provides a basis for insurance claims;
- (3) Reduces theft and negligence of equipment;
- (4) Establishes replacement schedules for equipment; and
- (5) Records transfers and/or disposals of surplus property to be classified as a fixed asset, an item must:
 - (a) Be tangible;
 - (b) Have a life longer than the current year, and
 - (c) Have a value over one hundred dollars (\$100.00).

Any property and equipment that meets these criteria must have an asset number (affixed with a property sticker), a property card, and be inventoried annually. Such records shall be controlled and maintained by the city manager. (Ord. #216-2, March 2016)

5-220. Disposal of surplus property. The purchasing agent shall be in charge of the transfer, disposal and disposition of surplus property, equipment and materials and shall make a full report to the city council after items are disposed of.

"Surplus property" as used herein to generically describe any city property, equipment, supplies, or material that is no longer needed or usable by the holding department.

When a department head determines there is surplus property within the department, he will notify the city manager in writing of any such equipment. The purchasing agent may transfer surplus property from one (1) department to another. (Ord. #216-2, March 2016)

5-221. Unsuitable for public use, sale or exchange. The purchasing agent with the approval of the city manager shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade in the same on, new supplies. Such sales shall be made to the highest bidder. All monies received from such sales shall be paid into the appropriate fund of the city. (Ord. #216-2, March 2016)

5-222. Items estimated to have monetary value. When disposing of items estimated to have monetary value, the purchasing agent shall adhere to the following procedures:

(1) Obtain a resolution from city council, declaring said item(s) as surplus property and fixing the date, time, and place for the purchasing agent to receive bids.

(2) A copy of the resolution shall be posted in three (3) locations in the city.

(3) The purchasing agent may advertise the surplus items being dispositioned using the most cost-effective advertising media that will be advantageous to the city.

(4) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within twenty-four (24) hours, the item shall be awarded to the second highest bidder.

(5) All pertinent dispositioning information will be noted in the fixed asset records of the city as to the disposal of the items.

(6) The advertisement, bids, and property cards shall be retained for a minimum period of five (5) years. (Ord. #216-2, March 2016)

5-223. Surplus property painted with city colors or with city emblems. No surplus city property painted with city colors and/or with a city emblem shall be disposed of unless it is repainted with colors other than those of the city and/or the emblem(s) removed. (Ord. #216-2, March 2016)

5-224. Recycling. Surplus property deemed to have no further utility within the city; of no practical value to other authorized agencies; and no practical resale or trade-in value, shall be recycled to the fullest extent possible. (Ord. #216-2, March 2016)

5-225. Items consumed in the course of work or thought to be worthless. City property which may be consumed in the course of normal city business and items thought to be worthless shall be disposed of in a like manner as any other refuse. These items shall be charged off as a routine cost of doing business. (Ord. #216-2, March 2016)

5-226. Employees participating in the disposal of surplus property. No city official, officer, employee, volunteer, their relatives, or representatives acting on the behalf of these same city officials, officers, employees, volunteers, or their relatives are permitted to purchase non-competitively or otherwise receive for ownership purposes, property of the city-surplus or otherwise.

City officials, officers, employees, volunteers, and their relatives or representatives are authorized to participate in any public sale of surplus property. (Ord. #216-2, March 2016)

5-227. Surplus property. (1) Purpose:

(a) To set forth the City of Baneberry's administrative policy for the transfer and disposition of surplus property, equipment and materials.

(b) To set forth the City of Baneberry's administrative policy for scrapping and recycling of scrap and recyclable surplus property, equipment and materials and disposing of same.

(c) To ensure the receipt of all revenues from the disposal of surplus property, equipment and materials and scrap or recyclables.

(d) To explain disciplinary consequences which may result should an elected official, employee or volunteer violate the policy and procedures set forth below.

(2) Definitions:

(a) The term "surplus property" is used generically herein to describe any city property, equipment or material that is no longer needed or usable by the holding department. For purposes of this policy, all surplus property including scrap, recyclables, trash, and/or junk disposed, discarded or abandoned on city premises, including all surplus property placed in storage or collection containers of any kind, including containers or facilities located on premises leased from the city by city tenants, is hereby deemed to be city property and not property of any city official, officer, employee or volunteer.

(b) The terms "scrapping" and "recycling" as used herein refer to the act of transferring discarded surplus property, including scrap or recyclables, to a vendor for use, salvage or resale.

(c) The terms "scrap" or "recyclables" as used herein refer to surplus property that:

(i) May be reused "as is" or after repair; or

(ii) May be salvaged for its mineral value after treatment or processing.

(d) The term "trash" or "junk" as used herein refers to surplus property which has no practical salvage or recyclable value.

This policy is designed to address two (2) categories of scrapping and recycling:

(i) Management-directed scrapping, recycling and handling of trash or junk, i.e., authorized disposal.

(ii) Personal scrapping, recycling or handling of trash or junk, i.e., unauthorized disposal.

(e) Employee's personal property. For purposes of this policy an employee's personal property is:

(i) That property in the possession of an employee which was the property of the employee prior to it having been brought onto or placed upon city premises; or

(ii) That property lawfully acquired from its prior owner or his/her authorized representative by an off-duty employee while on city premises after having been brought to city premises by its owner where such property remains in the possession of the employee as his or her property, after transfer to said employee. Each employee is responsible for determining that any property which he or she may take possession of or acquire while on city premises has been obtained or acquired from an individual lawfully authorized by its owner to make the transfer to the employee.

This definition of "personal property" applies to all elected officials, officers, employees and volunteers. (Ord. #216-2, March 2016)

5-228. Methods of transfer and disposition. All surplus property is disposed of "as is" and "where is," with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered unless expressly authorized by the city council.

(1) Transfer to another department. Surplus property may be transferred between city departments.

(2) Trade-in. Property declared as surplus may be offered as a trade-in for credit toward the acquisition of new property.

(3) Return to manufacturer. Surplus property may, when possible, be returned to the manufacturer for buy-back credit.

(4) Disposal. Surplus property may be offered for sale by the city. Appropriate methods of sale are as follows:

(a) Auction. Surplus property may be sold at public auction. Auctions may be conducted by city staff, or the city may contract with a professional auctioneer or electronic auction site.

(b) Sealed bids. Sealed bids may be solicited for the sale of surplus property. Surplus property disposed of in this manner shall be sold to the highest responsible bidder.

(c) Selling for scrap. Surplus property may be sold as scrap if the city deems that the value of its parts exceeds the value of the surplus property as a whole.

(d) No value item. Where the city determines that property is surplus and of minimal value to the city due to spoilage, obsolescence or other cause or where the city determines that the cost of disposal of such property would exceed the recovery value, the city shall dispose of the same in such a manner as they deem appropriate and in the best interest of the city.

(5) Donation. Surplus property may be donated to any other public agency or charitable organization exempt under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code. "Public agency" means the state or any agency or

subdivision thereof, any city, county, special district, or school district. (Ord. #216-2, March 2016, modified)

5-229. Transfer and disposition policy. Consistent with *Tennessee Code Annotated*, the city council sets forth the policy of the city for disposal or destruction of surplus property.

(1) City manager directed transfer and disposal (authorized).

(a) Property with an estimated market value exceeding ten thousand dollars (\$10,000.00). Transfer or disposition of surplus property with an estimated market value exceeding ten thousand dollars (\$10,000.00) per item shall be determined specifically by the city council.

(b) Property with an estimated market value less than ten thousand dollars (\$10,000.00). The city manager may direct the transfer and disposition of surplus property with an estimated market value not to exceed ten thousand dollars (\$10,000.00) per item.

(c) Transfer and disposition of surplus property may include:

(i) All surplus property will first be considered for transfer between departments for the benefit of the City of Baneberry.

(ii) All surplus property not needed by the City of Baneberry may be offered for sale for the highest estimated market value. Surplus property may be sold by public auction, electronic auction site, or sealed bid.

(iii) Surplus property may be donated or sold at less than estimated market value to public agencies and nonprofit organizations.

(d) Scrapping/recycling/junking.

(i) Such activities may involve the sale of surplus property at public auction or through sealed bids to public bodies, organizations, or vendors including scrap dealers or recycling centers.

(ii) It is the policy of the City of Baneberry that no official, officer, employee or volunteer may engage in any sale, scrapping or recycling or other disposal of city property, as defined herein, unless specifically directed to engage in such activity by the city manager who has been lawfully and duly authorized and designated to direct such activity.

(e) Real estate. All activity involving the declaration and sale of surplus real estate shall require authorization by the city council regardless of the actual or estimated value.

(2) Proceeds from transfer and disposition of property. When so authorized to transfer, sell, donate, recycle, and scrap city property, the official, officer, employee or volunteer directed to undertake such activity shall remit the entire proceeds from any such activity to the city by check or money order made

payable to the City of Baneberry, and such proceeds shall be deposited into the appropriate fund.

(3) Personal scrapping, recycling or disposal of trash or junk (unauthorized). Transferring, selling, donating, scrapping, recycling or disposing of city property, as defined herein (regardless of monetary value), by any city official, officer, employee or volunteer for personal gain or to benefit the interest of any person or party other than the City of Baneberry, including handling or disposal of trash or junk except as directed by city management person(s) lawfully and duly authorized and designated to direct such activity, is strictly forbidden.

(4) City officials, officers, employees and volunteers are prohibited from claiming ownership of, giving away, recovering, or salvaging for personal use, or the use or interest of any person other than the City of Baneberry, any materials abandoned, disposed or stored upon city premises, including trash or other materials, placed in, upon or in the vicinity of recycling or collection cans, dumpsters or bins located on city premises, or collection or debris piles, or other city storage or disposal facilities or refuse sites, and including any such facility or site belonging to any city tenant.

Furthermore, city officials, officers, employees and volunteers are prohibited from taking possession of any surplus property or the proceeds from the sale of surplus property designated for disposal as trash, scrap, or as recyclables, except as lawfully authorized by persons designated with such authority by the city manager.

This prohibition includes giving any such surplus property or the proceeds from the sale of such surplus property to any person or party other than for the duly authorized benefit and interest of the City of Baneberry, or authorizing any other person or party to accept, receive or take any such surplus property to benefit their own interest, except as provided herein above.

(5) Any transfer and/or disposal of surplus property authorized by the city manager shall be reported to the city council. (Ord. #216-2, March 2016)

5-230. Disciplinary actions. Appropriate disciplinary action, up to and including removal from office, employment termination, and removal from assigned volunteer position shall be taken should an official, officer, employee or volunteer be found, through proper investigation, to:

(1) Having failed to promptly remit to persons officially designated to receive proceeds, including cash or other consideration, from the sale of city property, as defined herein, including the proceeds from the sale, scrapping or recycling of any such property belonging to city tenants;

(2) Having failed, in the performance of their duties, to promptly place in appropriate city containers, bins, dumpsters, or other collection facilities, equipment or containers, or having received, taken, given away, collected, stored or retained in other than appropriate city containers, bins, or collection

facilities, or dump sites, city scrap, recyclables, trash or any such surplus property belonging to city tenants;

(3) Having engaged in selling, scrapping, recycling or handling of city property in violation of this chapter or the procedures set forth herein, including having engaged in any such activity for their personal interest or gain, or in aid of others doing the same for their respective interest or gain;

(4) Having used city vehicles, facilities or equipment to collect, store, or transport surplus property to sites, locations, or facilities, including the facilities of scrap vendors or recycling centers, except as specifically directed by authorized city management, in accordance with the procedures set forth herein; and/or

(5) Having failed to notify his department director in a prompt and timely manner after having observed any individual engaging in any of the above-described act(s) or having learned that such act(s) were being committed by other city officials, officers, employees or volunteers. (Ord. #216-2, March 2016)

5-231. Procedures. All surplus property is disposed of "as is" and "where is," with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered unless specified by the city council. It is critical to maintain a trail of documentation for audit purposes regarding the disposition of property of the City of Baneberry.

The city manager or his designee is authorized to declare property, equipment and materials surplus.

(1) Identifying excess property. Each department head is responsible to identify excess property regularly.

Each department head will evaluate the operational status of the excess property and notify the city manager in writing.

The city manager will circulate the excess property notification between the other departments within the city.

(2) Transfer excess property between departments. Department heads may request the transfer of excess property by making request to the city manager. Both department heads must agree when the excess property cost was in excess of two thousand five hundred dollars (\$2,500.00). Transfers between departments are contingent upon approval of the city manager.

Notification will be provided to the city manager in writing of any transfer of excess property to a different location or department ownership.

(3) Transfer surplus property for trade-in or return to manufacturer.

(a) Department heads may offer property for trade-in toward the purchase of new property and equipment with the approval of the city manager. Department heads will attach trade-in information to the procurement documents. Department heads will notify the city manager of the procurement and disposition of property and equipment.

(b) Department heads may offer property and equipment for buy-back credit to the manufacturer with approval of the city manager. Department heads will forward buy-back credit documents to the city manager. Department heads will notify the city manager of this disposition of property and equipment.

(c) Department heads will inform the city manager of all trade-ins and credits since it is critical for budgeting and asset tracking. If surplus property is to be applied to a purchase order, the trade-in value and/or credit shall be itemized on the purchase order. The amount charged against the appropriation code will be the value of the purchase before application of the trade-in credit.

(4) Disposal of surplus property. (a) Excess property as shown on applicable notifications, that is not transferred among departments or for trade-in or manufacturer's credit, will be declared surplus by the department head or city manager.

The department head will determine the estimated market value and the most fiscally advantageous method of disposal.

For surplus property with an estimated market value in excess of ten thousand dollars (\$10,000.00), the method of disposal will be determined by the city council.

(i) In determining the estimated market value, the department head shall document the methods used to make such determination including tools such as *Kelly Blue Book*, classified advertisements, and local vendors with similar products available.

(ii) The estimated market value will consider a computation of expenses associated with the disposal of surplus property. These expenses may include advertising, auction costs, storage, and other costs.

(iii) For surplus property in volume with unit values less than two thousand five hundred dollars (\$2,500.00), if the aggregate total of the property exceeds two thousand five dollars (\$2,500.00), then estimated market value will be by group.

(b) Method of disposal. Sale of surplus property shall be to the highest bidder or for the highest market value and may be disposed of by sale by public auction, or sealed bid.

(i) Auction. Surplus property may be sold at public auction. Public auctions may be conducted by city staff, or the city may contract with a professional auctioneer or electronic auction site.

Sale of surplus property at public auction conducted by city staff must be after giving publication in the official newspaper of the city no later than ten (10) days prior to such auction. The department head shall reserve the right to reject any and all bids received for any item.

In the event the department head rejects any and all such bids so received, the item may not be disposed of for a lesser value of the lowest bid rejected.

Abandoned bicycles and unidentified bicycles in possession of the police department for six (6) months may be sold at public auction conducted by the police department.

All unclaimed property may be sold at public auction after the period of six (6) months.

(ii) Sealed bid. Sealed bids may be solicited for the sale of surplus property. The department head shall reserve the right to reject any and all bids received for any item.

In the event the department head rejects any and all such bids so received, the item may not be disposed of for a lesser value of the lowest bid rejected.

(iii) Selling for scrap. Surplus property may be sold as scrap if the department head deems that the value of its parts exceeds the value of the surplus property as a whole after approval of the city council. For-profit vendors shall include scrap dealers and recycling centers.

(iv) No-value item. Where the department head determines that property is surplus and of minimal value to the city due to spoilage, obsolescence or other cause or where the department head determines that the cost of disposal of such property would exceed the recovery value, he shall dispose of the item in such a manner as they deem appropriate and in the best interest of the city considering the ability to recycle. Disposal of no value items must be approved by the city council.

(v) Donation. Surplus property may be donated to any other public agency or charitable organization exempt under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code.

(A) "Public agency" means the state or any agency or subdivision thereof, any city, county, special district, or school district.

(B) Non-profit organizations are recognized as charitable organizations exempt under section 501(c)(3) of the Internal Revenue Code.

(5) Accounting for the disposition of surplus property. (a) The department head will notify the city manager in writing of the disposition of all surplus property and attach all supporting documentation.

(b) The finance department shall make adjustments to their inventories/assets lists showing the disposition of excess property.

(c) Copies of all records documenting the surplus property process will be kept on file with the city manager.

(6) Transfer of ownership and title. Delivery of the surplus property together with transfer of ownership and title passes upon receipt of the proceeds.

The city manager shall cause licenses and title documents to be executed and transferred upon verification of receipt of funds.

(7) Surplus property and employees. City officials, officers, employees and/or volunteers shall not be the purchasers of any surplus real or personal property of the city.

This disqualification shall extend to the family members of such officials, officers, employees and/or volunteers and any third persons acting at the direction or request of a disqualified official, officer, employee or volunteer where the purchase or sale is intended for the benefit of such employee.

Any exceptions to this policy will only be made at the direction of the city manager.

Violation may result in disciplinary action up to and including discharge. (Ord. #216-2, March 2016, modified)

5-232. Definitions. When used in the context of this chapter and in the authorization of the purchase order, contractual agreements, invitations to bid, or other pertinent documents, the words, conditions and phrases below shall have the following meanings:

- (1) "Accept." To receive with approval or satisfaction.
- (2) "Acknowledgment." Written confirmation from the vendor to the purchaser of an order implying obligation or incurring responsibility.
- (3) "Agreement." A coming together in opinion or determination; understanding and agreement between two (2) or more parties.
- (4) "All or none." Baneberry reserves the right to award each item or to award all items on an "all or none basis."
- (5) "Annual." Recurring, done or performed every year.
- (6) "Appropriations." Public funds set aside for a specific purpose.
- (7) "Approved." To be satisfied with; admit the propriety or excellence of; to be pleased with; to conform; to ratify.
- (8) "Approved equal." Alike; uniform; on the same plane or level with respect to efficiency, worth, value, amount, or rights.
- (9) "Attest." To certify to the verity of a public document formally by signature; to affirm to be true or genuine.
- (10) "Award." The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.
- (11) "Awarded bidder." Any individual, company, firm, corporation, partnership, or other organization to whom an award is made by the city.
- (12) "Back order." The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.
- (13) "Bid." A vendor's response to an invitation for bids; the information concerning the price or cost of materials or services offered by a vendor.

(14) "Bid bond." An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

(15) "Bid file." A folder containing all of the documentation concerning a particular bid. This documentation includes: the names of all vendors to whom the invitation to bid was mailed, the responses of the vendors, the bid tabulations form and any other information as may be necessary.

(16) "Bid opening." The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

(17) "Bid solicitation." Invitations for bids.

(18) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the purchasing agent and offering to enter into contracts with the city. The term "bidder" as used throughout this chapter shall be construed to mean "offeror" where appropriate.

(19) "Blanket bid (order)." A type of bid used by buyers to purchase repetitive products. The city establishes its need of a product for a specified time. The vendor is then informed of the city's expected usage duration of the contract. The city will order small quantities of these items from the vendor over the life of the contract.

(20) "Business." Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or legal entity through which business is conducted.

(21) "Cancel." To revoke a contract or bid.

(22) "Capital items." Equipment which is tangible; has an expected lifespan of one (1) year or longer; and a value (usually) in excess of one thousand dollars (\$1,000.00).

(23) "Cash discount ." A discount from the purchase price allowed to the purchaser, if payment is made within a specified time.

(24) "Caveat emptor." Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

(25) "Certify." To testify in writing; to make known or establish as a fact.

(26) "City." Baneberry, Tennessee.

(27) "Competitive bidding." Bidding on the same undertaking or material items by more than one (1) vendor.

(28) "Conspicuously." To be prominent or obvious; located, positioned, or designed to be noticed.

(29) "Construction." The building, alteration, demolition or repair (including, but not limited to, dredging, excavating and painting) of public buildings, structures and highways, and other improvements or additions to real property.

(30) "Contract." An agreement, grant or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.

(31) "Data." Recorded information, regardless of form or characteristic.

(32) "Delivery schedule." The required or agreed upon rate of delivery of goods or services.

(33) "Discount for prompt payment ." A predetermined discount offered by a vendor for prompt payment. (See payment terms.)

(34) "Encumber." Reserve funds against a budgeted line item; to charge against an account.

(35) "Evaluation of bid." The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, or other characteristics of the bid that determine the eventual selection of a winning bid.

(36) "Fiscal year." An accounting period of twelve (12) months; July 1 to June 30.

(37) "F.O.B. destination." An abbreviation for "free on board" that refers to the point of delivery of goods. The seller absorbs transportation charges and retains title to and responsibility for the goods until Baneberry has received and signed for the goods.

(38) "Goods." All materials, equipment, supplies, and printing.

(39) "Invitation for bid." All documents utilized for soliciting bids.

(40) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(41) "Lead time." The period from date of ordering to date of delivery which the buyer must reasonably allow the vendor to prepare goods for shipment.

(42) "Life cycle costing." A procurement technique which considers the total cost of purchasing, maintaining, operating and disposal of a piece of equipment when determining low bid.

(43) "Material receiving report." A form used by the purchasing function of an agency to inform others of the receipt of goods purchased.

(44) "Payment term." The conditions under which a vendor completes a sale. "Payment terms" cover:

(a) When payment is expected;

(b) Any conditions on that payment; and

(c) Any discounts the buyer will receive.

(45) "Performance bond." A bond given to the purchaser by a vendor (or contractor) guaranteeing the performance of certain services or delivery of goods within a specified time. The purpose is to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

(46) "Pre-bid conference." A meeting held with potential vendors after an invitation for bids has gone out to promote uniform interpretation by all prospective contractors of the solicitation's scope, work statements and specifications.

(47) "Procurement or purchasing." Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. It also includes all functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including description of requirements, selection and solicitation of sources, preparation and award of contract, contract administration, and all phases of warehousing and disposal.

(48) "Public." Open to all.

(49) "Public purchasing unit." The State of Tennessee, any county, city, town, governmental entity, or other subdivision of the State of Tennessee, or any public agency or public authority.

(50) "Purchasing order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of goods or services ordered; agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(51) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(52) "Responsive bidder." One who has submitted a bid which conforms in all material respects to the invitation for bids.

(53) "Sealed." Secured in any manner so as to be closed against inspection of contents.

(54) "Sealed bids." Written proposals or offers which are submitted by potential vendors before a certain date to a purchasing agent who has provided complete information regarding specifications and quantities required.

(55) "Sole source procurement." An award for a commodity which can only be purchased from one (1) supplier, usually because of its technological, specialized, or unique character.

(56) "Specifications." Any description of the physical or functional characteristics of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(57) "Standardization." The making, causing, or adapting of items to conform to recognized qualifications.

(58) "Telephone bids." Contacting one (1) or more vendors to obtain oral quotes for items of a value less than four thousand dollars (\$4,000.00).

(59) "Vendor." The person who transfers property, goods, or services by sale. (Ord. #216-2, March 2016)

5-233. Funds appropriated and available. This chapter shall authorize only the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated and are within the limits of the funds estimated for each department in the annual budget or which have been authorized and lawfully funded by the city council.

The municipality shall have no liability for any purchase made in violation hereof. In the event any provision of this chapter shall be construed to be in conflict herewith, then the provisions of this section shall prevail. (Ord. #216-2, March 2016)

5-234. Forms and procedures. The city manager is authorized to develop additional procedures and forms in furtherance of these policies. (Ord. #216-2, March 2016)

5-235. Standards of conduct. In all actions involving procurement of supplies, services, or construction for the city, and the use and disposition of supplies, materials, time, property and equipment, the provisions of Ord. #207-1 - An Ordinance Adopting "Code of Ethics" for the City of Baneberry shall be complied with in full. (Ord. #216-2, March 2016)

CHAPTER 3

PRIVILEGE AND BUSINESS TAX

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (*Tennessee Code Annotated*, § 67-4-701, *et seq.*) are hereby expressly enacted, ordained, and levied on the business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed. (1999 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1999 Code, § 5-302)

CHAPTER 4**PROPERTY TAX COLLECTION****SECTION**

- 5-401. Trustee of Jefferson County to collect taxes.
- 5-402. Delinquent taxes.
- 5-403. Fee for service.

5-401. Trustee of Jefferson County to collect taxes. Commencing with the real property tax year of 2001, the Trustee of Jefferson County is hereby authorized to collect the ad valorem taxes assessed by the City of Baneberry on real property located within the city's corporate limits. (1999 Code, § 5-401)

5-402. Delinquent taxes. The Trustee of Jefferson County, Tennessee, is hereby authorized to collect all delinquent ad valorem taxes for the City of Baneberry for the year 2000. (1999 Code, § 5-402)

5-403. Fee for service. The city will pay to Jefferson County, through the county's trustee's office, the designated fee set by the Tennessee Legislature and the yearly computer conversion cost. (1999 Code, § 5-403)

CHAPTER 5

DEBT MANAGEMENT POLICY¹

SECTION

- 5-501. Purpose.
- 5-502. Definition of "debt."
- 5-503. Approval of debt.
- 5-504. Transparency.
- 5-505. Role of debt.
- 5-506. Types and limits of debt.
- 5-507. Use of variable rate debt.
- 5-508. Use of derivatives.
- 5-509. Costs of debt.
- 5-510. Refinancing outstanding debt.
- 5-511. Professional services.
- 5-512. Conflicts.
- 5-513. Review of policy.
- 5-514. Compliance.

5-501. Purpose. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the City of Baneberry, Tennessee. This policy reinforces the commitment of the city and its officials to manage the financial affairs of the city so as to minimize risks, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the city. A debt management policy signals to the public and the rating agencies that the city is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt. (Ord. #211-6, Dec. 2011)

5-502. Definition of "debt ". All obligations of the city to repay, with or without interest, in installments and/or at a later date, some amount of

¹State law references

Tennessee Code Annotated, §§ 7-51-901, *et seq.* - contracts, leases and lease purchase agreements.

Tennessee Code Annotated, §§ 9-21-101, *et seq.* - local government public obligations law.

money utilized for the purchase, construction, or operation of city resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund). (Ord. #211-6, Dec. 2011)

5-503. Approval of debt. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the city council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the city council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (Ord. #211-6, Dec. 2011)

5-504. Transparency. (1) The city shall comply with legal requirements for notice and for public meetings related to debt issuance.

All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites.

(2) All costs (including principal, interest, issuance, continuing, and onetime) shall be clearly presented and disclosed to the citizens, city council, and other stakeholders in a timely manner.

(3) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, city council, and other stakeholders in a timely manner.

(4) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, city council, and other stakeholders in a timely manner. (Ord. #211-6, Dec. 2011)

5-505. Role of debt. (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the city will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) In accordance with generally accepted accounting principles and state law:

(a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (Ord. #211-6, Dec. 2011)

5-506. Types and limits of debt. (1) The city will seek to limit total outstanding debt obligations to fifteen percent (15%) of the annual budget, excluding overlapping debt, enterprise debt, and revenue debt.

(2) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(3) The city's total outstanding debt obligation will be monitored and reported to the city council by the city manager. The city manager shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The city manager shall also report to the city council any matter that adversely affects the credit or financial integrity of the city.

(4) The city has issued (XYZ) in the past and is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law. The city has determined it currently will not issue (ABC).

(5) The city will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(6) As a rule, the city will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the city may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the city.

(7) The city may use capital leases to finance short-term projects.

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The city may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the city. The city council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the city's general fund. (This provision is necessary only if the city has a source of repayment for a revenue bond, such as a water or sewer system.) (Ord. #211-6, Dec. 2011)

5-507. Use of variable rate debt. The city recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

However, the city also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks, including:

(1) The city will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration;

(2) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the city council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail;

(3) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the city council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail;

(4) Prior to entering into any variable rate debt obligation, the city council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations; and

(5) The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (Ord. #211-6, Dec. 2011)

5-508. Use of derivatives. The city chooses not to use derivative or other exotic financial structures in the management of the city's debt portfolio.

Prior to any reversal of this provision:

(1) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the city council; and

(2) The city council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (Ord. #211-6, Dec. 2011)

5-509. Costs of debt. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the city council in accordance with the notice requirements stated above.

(2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e., general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (Ord. #211-6, Dec. 2011)

5-510. Refinancing outstanding debt. The city will refund debt when it is in the best financial interest of the city to do so, and the chief financial officer shall have the responsibility to analyze outstanding bond issues for

refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

The chief financial officer will consider the following issues when analyzing possible refunding opportunities:

(1) Onerous restrictions. Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(2) Restructuring for economic purposes. The city will refund debt when it is in the best financial interest of the city to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the chief financial officer if the refunding generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(3) Term of refunding issues. The city will refund bonds within the term of the originally issued debt. However, the chief financial officer may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The chief financial officer may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

(4) Escrow structuring. The city shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the city from its own account.

(5) Arbitrage. The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (Ord. #211-6, Dec. 2011)

5-511. Professional services. The city shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the city and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(1) Counsel. The city shall enter into an engagement letter agreement with each lawyer or law firm representing the city in a debt transaction. (No engagement letter is required for any lawyer who is an employee of the city or lawyer or law firm which is under a general appointment or contract to serve as counsel to the city. The city does not need an engagement letter with counsel not representing the city, such as underwriters' counsel.)

(2) Financial advisor. (If the city chooses to hire financial advisors, the city must select between the following options.) The city shall enter into a

written agreement with each person or firm serving as financial advisor in debt management and transactions.

(a) In a competitive sale, the financial advisor shall not be permitted to bid on an issue for which they are or have been providing advisory services.

(b) In a publicly offered, negotiated sale, the financial advisor (either):

(i) Shall not be permitted to resign as financial advisor in order to underwrite an issue for which they are or have been providing advisory services; or

(ii) May resign as financial advisor only in advance of negotiations in order to underwrite an issue for which they are or have been providing advisory services.

(3) Underwriter. (If there is no financial advisor.) In advance of pricing of the debt in a publicly offered, negotiated sale, the underwriter must provide pricing information both as to interest rates and to takedown per maturity to the city council (or its designated official). (Ord. #211-6, Dec. 2011)

5-512. Conflicts. Professionals involved in a debt transaction hired or compensated by the city shall be required to disclose to the city existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the city to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (Ord. #211-6, Dec. 2011)

5-513. Review of policy. This policy shall be reviewed at least annually by the city council with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (Ord. #211-6, Dec. 2011)

5-514. Compliance. The city manager is responsible for ensuring compliance with this policy. (Ord. #211-6, Dec. 2011)

CHAPTER 6

USE OF COLLECTION AGENCY

SECTION

5-601. Authorization.

5-602. Contract.

5-601. Authorization. The city is hereby authorized to solicit and use the services of a collection agency to collect unpaid fines and unpaid special assessments. (Ord. #211-2, May 2011)

5-602. Contract. The contract with such collection agency shall be in writing and conform to all provisions set forth in *Tennessee Code Annotated*, § 40-24-105(d). (Ord. #211-2, May 2011)

CHAPTER 7

HOTEL/MOTEL TAX

SECTION

- 5-701. Definitions.
- 5-702. Register required; availability for inspection.
- 5-703. Rooms to be numbered.
- 5-704. Tax levied.
- 5-705. Collection.
- 5-706. Remission to city.
- 5-707. Collection, development of report, audit, etc.
- 5-708. Operator cannot advertise that he will assume tax.
- 5-709. Delinquent taxes; offenses by operators and/or transients.
- 5-710. Operators to keep records.
- 5-711. Additional powers of recorder; remedies available to taxpayer.
- 5-712. Recorder to collect; disposition of proceeds.

5-701. Definitions. As used in this chapter:

(1) "Consideration " means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever;

(2) "Hotel " means any structure or space, or any portion thereof, that is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes privately, publicly, or government-owned hotels, inns, tourist camps, tourist courts, tourist cabins, motels, short-term rental units, primitive and recreational vehicle campsites and campgrounds, or any place in which rooms, lodgings, or accommodations are furnished to transients for consideration;

(3) "Occupancy " means the use or possession, or the right to use or possession, of any room lodgings or accommodations in any hotel;

(4) "Persons " means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit;

(5) "Tourism" means attracting nonresidents to visit a particular municipality and encouraging those nonresidents to spend money in the municipality, which includes travel related to both leisure and business activities;

(6) "Tourism development " means the acquisition and construction of, and financing and retirement of debt for, facilities related to tourism; and

(7) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings, or accommodations in a hotel for a period of less than thirty (30) continuous days. (Ord. #2022-01, March 2022)

5-702. Registration required; availability for inspection. Every person to whom a permit is issued under this article shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his hotel. Such register shall be signed in every case by the persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city. (Ord. #2022-01, March 2022)

5-703. Rooms to be numbered. Each sleeping room and in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number. (Ord. #2022-01, March 2022)

5-704. Tax levied. There is hereby levied, assessed and imposed, and shall be paid and collected, a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount equal to four percent (4%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided herein. (Ord. #2022-01, March 2022)

5-705. Collection. Such tax shall be added by each operator to each invoice prepared by the operator for the occupancy in his hotel to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the city. (Ord. #2022-01, March 2022)

5-706. Remission to city. The tax hereby levied shall be remitted by all operators who lease, rent or charge for occupancy within a hotel in the city to the city recorder of the city, such tax to be remitted to such officer no later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator and if credit is granted by the operator to the transient then the obligation to the city entitled to such tax shall be that of the operator. (Ord. #2022-01, March 2022)

5-107. Collection, development of report, audit, etc. The city recorder shall be responsible for the collection of such tax. A monthly tax return

under oath shall be filed with the city recorder by the operator with such number of copies thereof as the city recorder may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city recorder and approved by the board of mayor and aldermen prior to use. The city recorder may audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the board of mayor and aldermen. (Ord. #2022-01, March 2022)

5-708. Operator cannot advertise that his will assume tax. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof, will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (Ord. #2022-01, March 2022)

5-709. Delinquent taxes; offenses by operators and/or transients. Taxes collected by the operator which are not remitted to the city recorder on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, such taxes are delinquent. Such interest shall become a part of the tax. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). (Ord. #2022-01, March 2022)

5-710. Operators to keep records. It shall be the duty of every operator liable for the collection and payment to the city of the tax imposed by this article to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city which records the city recorder shall have the right to inspect at all reasonable times. (Ord. #2022-01, March 2022)

5-711. Additional powers of recorder; remedies available to taxpayer. The city recorder or other authorized collector of the tax in administering and enforcing the provisions of this act shall have, as additional powers, those powers and duties with respect to collecting taxes as provided by law for the county clerks. Upon any claim of illegal assessment and collection, the tax payer shall have the remedy provided in *Tennessee Code Annotated*, title 67. The city recorder shall have all those powers and duties as provided in *Tennessee Code Annotated*, § 67-1 -707(b) with respect to the adjustment and settlement with tax payers of errors of taxes collected. Any tax paid under protest shall be paid to the city recorder. Any suit filed to recover taxes paid

under protest may be brought by filing the same against the city recorder of the city. (Ord. #2022-01, March 2022)

5-712. Recorder to collect; disposition of proceeds. The city recorder is hereby charged with the duty of collection of the tax herein levied and the proceeds received by the city from the tax shall be used exclusively for tourism and tourism development within the city as required by *Tennessee Code Annotated*, § 67-4-1403. (Ord. #2022-01, March 2022)

TITLE 6

LAW ENFORCEMENT

[RESERVED FOR FUTURE USE]

TITLE 7**FIRE PROTECTION AND FIREWORKS****CHAPTER**

1. FIRE CODE.
2. FIRE DEPARTMENT.
3. OPEN BURNING.

CHAPTER 1**FIRE CODE****SECTION**

- 7-101. Fire code adopted.
7-102. Available in recorder's office.
7-103. Violations and penalty.

7-101. Fire code adopted. The *NFPA-1 Uniform Fire Code*,¹ 2018 edition, is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. One (1) copy of the fire prevention code has been filed with the recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (Ord. #215-6, June 2015, modified)

7-102. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

7-103. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

CHAPTER 2

FIRE DEPARTMENT

SECTION

- 7-201. Establish fire department.
- 7-202. Operations.
- 7-203. Objectives.
- 7-204. Organization.
- 7-205. Annual budget.
- 7-206. Suspend or dismiss.
- 7-207. Training.
- 7-208. Fire chief is assistant to state commissioner of commerce.
- 7-209. Personnel and/or equipment outside city limits.

7-201. Establish fire department. There is hereby established a fire department, to be supported and equipped from appropriations by the city commissioners and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased with the approval of the fire chief in accordance with municipal purchasing requirements and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the city commissioners, and such number of subordinate officers and firemen as may be recommended by the fire chief. The fire department shall consist of volunteers in addition to the fire chief and all officers. (Ord. #206-1, May 2006)

7-202. Operations. The city commissioners shall provide for the operations of the fire department in its annual budget. Any funds raised by the fire department auxiliary, or by any individual or group of volunteer firefighters may be accepted by the city commissioners and may be used for purposes designated by the respective contributors. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the City of Baneberry. The city commissioners may reject any gift or contribution it deems not to be in the best interest of the City of Baneberry. (Ord. #206-1, May 2006)

7-203. 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 because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.
- (7) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable.

(8) To provide code enforcement and building inspections as directed by the city within adopted codes and ordinances.

(9) To assist emergency management agency of the city.

(10) To protect the health and safety of the citizens from the transportation, storage, or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow.

(11) To work with the water department to insure that adequate water supplies for fire protection are available.

(12) To provide public fire education materials and information to the citizens in order that they may protect themselves from harm. (Ord. #206-1, May 2006, as amended by Ord. #216-1, Feb. 2016)

7-204. Organization. The chief of the City of Baneberry Fire Department shall, under the direction of the city commissioners, set up the organization of the department, make work assignments to individuals, based on input, suggestions and recommendations from the members of the volunteer fire department, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (Ord. #206-1, May 2006)

7-205. Annual budget. The chief of the City of Baneberry Fire Department shall prepare the annual departmental budget to be approved by the city commissioners, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports to the mayor as the mayor requires. The mayor shall submit such written reports to the city commissioners as the city commissioners requires. (Ord. #206-1, May 2006)

7-206. Suspend or dismiss. The chief of the City of Baneberry Fire Department shall have the authority to suspend or dismiss any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the city manager. However, only the city commissions shall dismiss the fire chief. (Ord. #206-1, May 2006)

7-207. Training. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city commissioners. Each volunteer firefighter and/or officer shall receive no less than forty (40) hours of in-service firefighter training annually, after an initial training period consisting of no less than sixteen (16) hours of basic firefighter training during the first ninety (90) days of his membership in the fire department. Paid firefighters shall be trained in accordance with the standards of the *Firefighting Personnel Standards and Education Commission*. (Ord. #206-1, May 2006, modified)

7-208. Fire chief is assistant to state commissioner of commerce.

Pursuant to requirement of *Tennessee Code Annotated*, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of commerce and 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 commissioner in the execution of the provisions thereof. (Ord. #206-1, May 2006)

7-209. Personnel and/or equipment outside city limits. Personnel and/or equipment of the City of Baneberry Fire Department may be used for fighting any fire outside the city limits if:

(1) In the opinion of the fire chief, the fire is in such hazardous proximity to property owned or located within the city as to endanger the city property; or

(2) The city commissioners have developed policies for providing emergency services outside the city limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(a) The Local Government Emergency Assistance Act of 1987, as amended, codified in *Tennessee Code Annotated*, § 58-2-601 *et seq.*;

(b) *Tennessee Code Annotated*, § 12-9-101, *et seq.*; or

(c) *Tennessee Code Annotated*, § 6-54-601. (Ord. #206-1, May 2006)

CHAPTER 3

OPEN BURNING

SECTION

- 7-301. Permits required.
- 7-302. State forestry permit required.
- 7-303. Time and conditions of burning.
- 7-304. Disallowed items.
- 7-305. Attendance at burning.
- 7-306. Alternatives.
- 7-307. Violations and penalty.

7-301. Permits required. (1) Any party desiring to burn any authorized item outside and away from any structure on their real property shall be required to obtain a burning permit from the city manager before burning is to commence.

(2) Burning below the one thousand and two (1,002) (elevation in feet above sea level) on lakeside lots is not exempt from the burn permit requirements of this chapter. While land below the one thousand and two (1,002) is "outside" of the city limits, the Tennessee Department of Forestry requires burn permits for any burning anywhere between Oct. 15 and May 15.

(3) Lakeside land owners desiring to burn any authorized item below the one thousand and two (1,002) level shall obtain a burn permit from the city throughout the year and the additional Tennessee Department of Forestry burn permit when burning between Oct. 15 and May 15.

(4) Said city permit shall state what items are to be burned, where, by whom, and when the burn is to begin.

(5) There shall be no cost for obtaining said burning permits.

(6) Permits are not required for burning in containers such as a metal barrel or a recreational "burn pit" covered with a one-half inch (1/2") mesh screen cover. (Ord. #217-05, Nov. 2016)

7-302. State forestry permit required. An additional burning permit from the Tennessee Department of Forestry is required for outdoor burning of authorized items during the period between Oct. 15 and May 15.

(1) Anyone starting an open-air fire within five hundred feet (500') of a forest, grassland, or woodland must by law obtain a burning permit from the division of forestry.

(2) Permits are not required for burning in containers such as a metal barrel or a recreational "burn pit" covered with a one-half inch (1/2") mesh screen cover.

(3) Permits from the division of forestry are free of charge and may be obtained by calling the division of forestry phone number for the county where the burning will be done (Jefferson - 865-475-3467). Burning permits by phone

are available Monday through Friday from 8:00 A.M. to 4:30 P.M., except on holidays. Permits may be obtained in advance for weekends and holidays. Permits issued by the Division of Forestry are also available online any day of the week from 8:00 A.M. to 11:00 P.M. central time:

<https://agriculture.tn.gov/OnlineBurnPermitPublic/default.aspx>

(Ord. #217-05, Nov. 2016)

7-303. Time and conditions of burning. (1) All open burning shall be allowed on any day of the week in accordance with the approved dates on the burn permit.

(2) All open burning shall commence at any time after dawn and shall be completely extinguished before the sun sets for that evening.

(3) The city manager or fire chief of the Baneberry Fire Department, or any of his agents, shall be empowered to suspend the permit granted by the city manager and by the Tennessee Department of Forestry in the event that high winds, or any other unsafe weather condition exist on the day of burning or after the burning has commenced.

(4) If a permit is suspended the holder of the permit shall notify the city manager who shall set a new date.

(5) If, after the burning has commenced, an unexpected wind or other unsafe weather conditions arise which may cause the burning to be unsafe, the permit holder shall immediately take measures to extinguish the burning by themselves.

(6) If at any time a permit holder allows a burn to get out of control and it becomes necessary to have a fire department extinguish the fire, the permit holder shall be responsible for all costs incurred by the city as a result of the permit holder's action. (Ord. #217-05, Nov. 2016)

7-304. Disallowed items. No permit holder shall be allowed to burn any of the following items:

- (1) Tires and other rubber products.
- (2) Vinyl siding and vinyl shingles.
- (3) Plastics and other synthetic materials.
- (4) Paper products, cardboard and newspaper.
- (5) Asphalt shingles, and other asphalt roofing materials and demolition debris.
- (6) Asbestos-containing materials.
- (7) Paints, household and agricultural chemicals or chemical compounds.
- (8) Aerosol cans and food cans.
- (9) Containers containing butane or any other gas compounds.
- (10) Building material and construction debris.
- (11) Buildings and mobile homes.
- (12) Coated wire.
- (13) Household trash.

- (14) Most vegetation not grown on site.
- (15) Any compound which may cause a noxious odor or is deemed to be environmentally unsafe.
- (16) Any other item, element or compound deemed non-burnable by any federal or state law or regulation.
- (17) Glass or products containing glass.
- (18) Any item defined as hazardous or toxic pursuant to *Tennessee Code Annotated*, § 68-131, *et seq.* (Ord. #217-05, Nov. 2016)

7-305. Attendance at burning. All permit holders shall be responsible for having an individual at the site tending the fire at all times the burning is taking place. (Ord. #217-05, Nov. 2016)

7-306. Alternatives. Tennessee states that open burning is "harmful to the air we breathe; unhealthy for our neighbors - near and far; unsafe; and often unnecessary. While it may be okay to burn leaves, branches, tree limbs, twigs, lawn clippings, woody vegetation, yard trimmings, clean unpainted, uncoated wood or untreated lumber," the State of Tennessee encourages its citizens to consider alternatives including recycling and composting. (Ord. #217-05, Nov. 2016)

7-307. Violations and penalty. Any individual who violates any provision of this chapter shall be summoned to the Baneberry City Court and shall be subjected to a fine of not more than fifty dollars (\$50.00) plus any costs incurred by the city. (Ord. #217-05, Nov. 2016)

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER****1. BEER.****CHAPTER 1****BEER**²**SECTION**

- 8-101. Beer board established.
- 8-102. Meetings of the beer board.
- 8-103. Record of beer board proceedings to be kept.
- 8-104. Requirements for beer board quorum and action.
- 8-105. Permit required for engaging in beer business.
- 8-106. Privilege tax.
- 8-107. Beer permits shall be restrictive.
- 8-108. Interference with public health, safety, and morals prohibited.
- 8-109. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-110. Prohibited conduct or activities by beer permit holders.
- 8-111. Suspension and revocation of beer permits.
- 8-112. Civil penalty in lieu of suspension.
- 8-113. Permits not transferable.
- 8-114. Inspection of beer business.

8-101. Beer board established. There is hereby established a beer board to be composed of the members of the Board of Commissioners of the City of Baneberry, whose duty it shall be to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store, distribute, dispense, serve, and/or manufacture beer, ales, malt liquors and other beverage of like alcoholic content, defined pursuant to *Tennessee Code Annotated*, § 57-5-101, in the City of Baneberry. The mayor shall be the chairman and the city recorder shall be the secretary of said board. A majority of the board shall

¹State law reference
Tennessee Code Annotated, title 57.

²State 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).

constitute a quorum for any purpose. Members of the beer board shall serve without compensation. (Ord. #216-3, Feb. 2016)

8-102. Meetings of the beer board. All meetings of the beer board shall be open to the public. The beer board shall conduct a regularly scheduled meeting immediately following the board of commissioner's regularly scheduled monthly meeting in February. The beer board shall hold additional regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives adequate notice thereof to each member and to the public. The board may adjourn a meeting at any time to another time and place. (Ord. #216-3, Feb. 2016)

8-103. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a permanent public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions before the board; a copy of each motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #216-3, Feb. 2016)

8-104. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #216-3, Feb. 2016)

8-105. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture (brew) beer for sale within the incorporated area of the City of Baneberry without first making application to and obtaining a permit from the beer board (*Tennessee Code Annotated*, § 57-5-103). The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-105, and shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Baneberry. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #216-3, Feb. 2016)

8-106. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer, an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock

company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on Jan. 1, 1994, and each successive Jan. 1, to the City of Baneberry, 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 pro rata basis for each month or portion thereof remaining until the next tax payment date. The city shall provide each beer permit holder with written notice of the payment due date at least thirty (30) days prior to Jan. 1. If the permit holder does not pay the annual privilege tax by Jan. 31, or within thirty (30) days after written notice of the tax was mailed, whichever is later, the city must notify the permit holder by certified mail that the tax is past due. If the permit holder does not pay the tax within ten (10) days after receiving notice of delinquency by certified mail, the beer permit is void. (Ord. #216-3, Feb. 2016)

8-107. 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 shall be of the following type only:

(1) Off-sale. An "off-sale" permit is required by any person or legal organization engaged in the sale of beer where it is not to be consumed by the purchaser upon or near the premises of the seller.

(2) On-sale. An "on-sale" permit is required by any person or legal organization engaged in the sale of beer where it is to be consumed by the purchaser or his guests on the premises of the seller, and in regularly incorporated clubs and lodges upon their obtaining the required permit.

(3) A business may sell beer for both on- and off-premises consumption under the same permit if so approved by the beer board and so indicated on the beer permit. *Tennessee Code Annotated*, § 57-5-103(a)(5).

(4) If a permit holder wants to change method of sales, he must apply for a new permit.

(5) The maximum number of permits permitted under this chapter shall be three (3) until such time as the population of the city reaches one thousand six hundred (1,600) at which time one (1) additional permit may be granted.

(6) It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him to not comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

(7) A permit is valid only for a single location, which includes all decks, patios and other outdoor service areas contiguous to the location.

(8) A permit is valid only for the business of the owner named in the permit application - if the name changes, a new permit must be obtained.

(9) A permit holder must return a permit to the City of Baneberry within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name. A change in ownership occurs for a corporate owner when at least fifty percent (50%) of the stock of the corporation is transferred to a new owner. (Ord. #216-3, Feb. 2016)

8-108. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within three hundred feet (300') of any school, church, or other such place of public gathering, measured on a straight line from the nearest building of said school, church or other such place of public gathering to the nearest building in which beer is stored, sold or manufactured. (Ord. #216-3, Feb. 2016)

8-109. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the illegal possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (Ord. #216-3, Feb. 2016)

8-110. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

(2) Employ any person less than eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only).

(3) Make or allow any sale of beer or other alcoholic drink between the hours of 1:00 A.M. and 6:00 A.M. on Monday to Saturday of the week and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(5) Make or allow any sale of beer or other alcoholic drink to a person less than twenty-one (21) years of age.

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

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

(8) Allow drunk or disreputable persons to loiter about his premises.

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

(10) Permit gambling activities of any sort on the premises. (Ord. #216-3, Feb. 2016)

8-111. Suspension and revocation of beer permits. (1) All permits subject to suspension/revocation. All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by the board for the violation of any provisions of the applicable laws of the State of Tennessee or any of the provisions of this chapter or where the holder thereof is guilty of making false statements or misrepresentations in his application for a permit.

(2) Authority of board. The board by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

(3) Complaints. Complaints filed against any permit holder for the purpose of suspending or revoking beer permits shall be made in writing and filed with the board.

(4) Notice to appear, content and service. When the board has reason to believe that any permit holder has violated any of the provisions of this chapter or any of the provisions of the State Beer Act, *Tennessee Code Annotated*, § 57-5-101, *et seq.*, the board is authorized, in its discretion, to notify the permittee of the violations and to cite the permittee by written notice to appear and show cause why his permit should not be suspended or revoked for the violations. The notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the city. The notice shall be served upon the permittee at least five (5) days before the date of the hearing,

(5) Hearing. At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After the hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke the permit

(6) Effect of board action. The action of the board in all such hearings shall be final, subject only to judicial review. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location until the expiration of one (1) year from the date of revocation becomes final.

(7) Revocation. A beer permit shall be automatically revoked when a business for which the permit was issued fails to begin the sale of beer within sixty (60) calendar days after the granting of such permit or where a business for which a permit has been granted ceases to operate for a period of thirty (30) consecutive calendar days.

(8) Suspension/revocation of Tennessee state mixed drink license. If the Tennessee State Alcoholic Beverage Commission (TABC) suspends or revokes a businesses' mixed drink license, the city beer board can also suspend that businesses' beer permit if the circumstances warrant. When the beer board takes this action it shall notify the state ABC of the action by date of suspension/revocation, the business name, and the address of the permit holder. (Ord. #216-3, Feb. 2016, modified)

8-112. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the permit 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. (Ord. #216-3, Feb. 2016)

8-113. Permits not transferable. Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by purchase or otherwise, of the business for which the permit is required in the manner provided herein. (Ord. #216-3, Feb. 2016)

8-114. Inspection of beer business. The police officers and/or the members of the beer board of the City of Baneberry shall have the right to inspect at any and all times the entire premises and property where or upon, on or in which the beverages regulated by this chapter are sold, stored, transported or otherwise dispensed or distributed or handled, whether retail or wholesale, in the city. The chief of police shall maintain a written record of each permittee of the findings of inspections conducted in accordance with this section. (Ord. #216-3, Feb. 2016)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CABLE TELEVISION.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.

SECTION

- 9-101. Permit required.
- 9-102. Permit not transferable.
- 9-103. Definitions.
- 9-104. Exemptions.
- 9-105. Application for permit.
- 9-106. Health permit.
- 9-107. Application fee.
- 9-108. Privilege tax levied.
- 9-109. Temporary vending license for special events.
- 9-110. Issuance or refusal of permit.
- 9-111. Appeals.
- 9-112. Bond and insurance.
- 9-113. Loud noises and speaking devices.
- 9-114. Use of streets.
- 9-115. Restrictions applicable to all vendors.
- 9-116. Exhibition of permit.
- 9-117. City police officers to enforce.
- 9-118. Revocation or suspension of permit.
- 9-119. Sales tax receipts and sales documentation.
- 9-120. Renewal and reapplication.
- 9-121. Sale on public property prohibited.
- 9-122. Garage sales.
- 9-123. Violations and penalty.

9-101. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, transient merchant, temporary merchant, or seasonal merchant to sell goods or services or to ply a trade or to conduct business within the corporate limits of the City of Baneberry (hereinafter referred to as "city") without first obtaining a permit and paying the privilege tax therefor in compliance with the provisions of this chapter. (Ord. #215-11, June 2015)

9-102. Permit not transferable. The permit provided for in this chapter shall not be transferable nor give authority to more than one (1) person to sell or exhibit food, beverages, goods, wares and merchandise either by agent or clerk or in any other way than his own proper person, but any person having obtained such license may have the assistance of one (1) or more persons in conducting the sale or exhibit who shall have the authority to aid that principal but not to act for or without him.

No permit shall be used at any time by any person other than the one (1) to whom it is issued. (Ord. #215-11, June 2015)

9-103. Definitions. (1) "Canvasser." A person, corporation or entity that conducts surveys of public opinion, conducts public opinion polls, counts heads, or distributes flyers, materials, or information. This definition shall not be read to prohibit any function of any governmental entity.

(2) "City." The City of Baneberry, Tennessee.

(3) "Door-to-door selling." Going to one (1) or more residences within the city in person or by the agent for the purpose of peddling, soliciting, or vending, who engages in a business of selling or offering for sale, food, beverages, goods, services, wares and merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery.

(4) "Merchandise." Used in its broadest sense, and shall include property of every kind.

(5) "Motor vehicle." Any vehicle used for the displaying, storing, or transportation of articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles. This term is to include, but not be limited to, trailers, trucks, buses, and automobiles.

(6) "Peddler." A person, corporation or entity that sells wares, products, services, etc., by carrying them through the streets or that brings goods, services, products, etc., from place to place, exhibiting them for sale.

(7) "Public place." Any public road, street, alley, park, building, or other property of the city or any other place to which people commonly congregate for the purpose of business, recreation, or amusement.

(8) "Recorder." The City Manager of Baneberry or his designee.

(9) "Services." Used in its broadest sense and shall include any work done for the benefit of another person.

(10) "Solicitor." A person, corporation or entity that tries to obtain business orders, advertising, etc.

(11) "Special event." Any occasion including, but not limited to, fairs, shows, exhibitions, city-wide celebrations, festivals, etc., within a specifically defined area of the city for a period of time not to exceed five (5) days.

(12) "Stand." Any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, and is used for the display, storage, or transportation of articles offered for sale by a vendor.

(13) "Temporary." Any such business for which definite arrangements have not been made for the hire, rental or lease of premises for at least one (1) month, in or upon which such business is to be operated or conducted.

(14) "Transient merchant, temporary merchant, or seasonal merchant." A person, corporation or entity that does not have a licensed permanent retail location in the city that displays samples, or models services, goods, wares, products, clothing, or merchandise for the purpose of selling at retail or securing orders for the retail sale of such services, goods, wares, products, clothing, or merchandise.

(15) "Vendor." Additionally, "peddlers," "solicitors," and "vendors" shall mean any person firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a business of selling or offering for sale, food, beverages, goods, services, wares and merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery and who, in furtherance of such purposes, hires, leases, uses or occupies any stand, motor vehicle, tent, or from his or her premises or person. (Ord. #215-11, June 2015)

9-104. Exemptions. The following are exempt from §§ 9-107, 9-108, 9-109 and 9-112 of this title, but shall otherwise be required to comply with all other provisions.

(1) Bona fide non-profit charitable, religious, patriotic or philanthropic organizations including, but not limited to, public or private schools;

(2) Persons selling at wholesale to dealers;

(3) Bona fide merchants, merely delivering goods in the regular course of business;

(4) Persons selling newspapers or magazines; and

(5) Persons selling goods and services on the property or parking lot of an existing business open to the general public during business hours of the business, providing that the individual has filed an application with the city recorder and provided documentation authorizing the individual to sell goods and services on said property.

National retailers that sell and deliver, door-to-door, are not exempt any provision of this title. (Ord. #215-11, June 2015)

9-105. Application for permit. (1) Applicants for a permit must file with the city recorder a sworn written application containing the following:

(a) The full name, home address, permanent business address (if any), telephone number, driver's license number, and proof of identity;

(b) A recent clear photograph approximately two inches (2") square showing the head and shoulders of the applicant;

(c) A copy of the vendor's current State of Tennessee sales tax permit together with written documentation from the state comptroller

that all sales taxes that may be due and owing by the vendor have been fully paid;

(d) A brief description of the nature and character of the business, and the quality of the food, beverages, goods or merchandise to be sold;

(e) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;

(f) The length of time for which the right to do business is desired;

(g) The specific location, if any, in which the vendor intends to conduct business;

(h) A written statement from the property owner consenting to applicant's use of his property for the sales activities indicated in the permit application;

(i) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility;

(j) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor; and

(k) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and the addresses from which such business was conducted in those municipalities.

(2) All applicants shall submit and consent (in writing) to a criminal background check, which shall be conducted by the city police department and the recorder.

(3) An applicant shall provide the recorder all applicable permits or licenses required by any state or federal agency or government as a condition of conducting any business or trade as described herein. All peddlers, canvassers, solicitors, transient merchants, temporary merchants or seasonal merchants that sell or distribute "fireworks" as defined by *Tennessee Code Annotated*, § 68-104-101, *et seq.*, shall provide the required applicable permit as a manufacturer, distributor, wholesaler, retailer or seasonal retailer from the State of Tennessee Fire Marshal. (Ord. #215-11, June 2015)

9-106. Health permit. The application of any vendor engaged in the sale or distribution of food or beverages shall also be referred to the State Division of Environmental Health for approval of a valid health permit. The health permit shall be required in addition to the vending license required by this chapter. Such vendor's equipment shall be subject to inspections by the

State Division of Environmental Health at the time of application and at periodic intervals thereafter. (Ord. #215-11, June 2015)

9-107. Application fee. At the time of the filing the application, a fee of two hundred fifty dollars (\$250.00) shall be paid to the city to defray the costs of investigating the applicant's background, criminal history, the facts stated herein and the costs of enforcing this chapter. Permits shall be valid for one (1) year from the date of issuance. (Ord. #215-11, June 2015)

9-108. Privilege tax levied. There is hereby imposed on peddlers, canvassers, solicitors, transient merchants, temporary merchants and seasonal merchants a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, or other entity engaged as a peddler, solicitor, canvasser, transient merchant, temporary merchant or seasonal merchant shall remit said tax to the recorder prior to engaging in their trade or business. The privilege tax shall be paid one (1) time per year and shall be due three hundred and sixty-five (365) days after the prior payment of said tax. (Ord. #215-11, June 2015)

9-109. Temporary vending license for special events. Vendors wishing to conduct business at a special event shall apply to the city for a temporary vending license. Application for such a license must be made at least seven (7) days prior to the beginning of the event. The license is valid only for the duration of the special event or the expiration of five (5) days, whichever comes first. The fee for issuance of a temporary vending license shall be sixty dollars (\$60.00) payable to the city manager at the time of issuance. Vendors granted a temporary license shall be subject to the same application and operating regulations as other vendors, except where otherwise specified. (Ord. #215-11, June 2015)

9-110. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-112. The city recorder shall keep a permanent record of all permits issued. (Ord. #215-11, June 2015)

9-111. Appeals. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal

to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (Ord. #215-11, June 2015)

9-112. Bond and insurance. Every permittee shall file with the recorder a surety bond to the city in the amount of ten thousand dollars (\$10,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the city and the statutes and regulations of the state that regulate peddlers, canvassers, solicitors, transient merchants, temporary merchants, seasonal merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any and all citizens of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among other, the bond is given. The surety may be relieved without costs of all further liability by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced. If the permittee's business or trade necessitates or requires said permittee to drive a motor vehicle within the corporate limits of the city, the permittee shall provide the recorder with the necessary proof of insurance, required by *Tennessee Code Annotated* § 55-12-101, *et seq.*

All peddlers, canvassers, solicitors, transient merchants, temporary merchants or seasonal merchants that sell or distribute "fireworks" as defined by *Tennessee Code Annotated*, § 68-104-101, *et seq.* shall provide the recorder with a valid certificate of liability insurance evidencing insurance coverage for their business or trade activities. This certificate of liability insurance shall be in an amount of no less than one hundred thousand dollars (\$100,000.00). (Ord. #215-11, June 2015, modified)

9-113. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the

purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (Ord. #215-11, June 2015)

9-114. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Ord. #215-11, June 2015)

9-115. Restrictions applicable to all vendors. (1) Stands. Vendor stands, where permitted by variance authorized by the Baneberry Planning Commission Board of Appeals shall not:

(a) Exceed twenty feet (20') in length, ten feet (10') in width or thirteen feet (13') in height;

(b) Impede access or hinder the view to or from the entrance or driveway of any adjacent building; or

(c) Occupy more than one-half (1/2) of the available sidewalk width or twenty feet (20') of such sidewalk; whichever is less.

(2) Hours of operation. Except for the vending of food or drinks from a motor vehicle or other non-stationary means within construction, manufacturing or similar areas in the manner specified in subsection (7) below, vendors shall be allowed to engage in the business of vending only between the hours of 8:00 A.M. to 6:00 P.M. All vending stands must be removed during non-vending hours. When temporary vending permits are issued for special events under the provisions of § 9-109 above, the applicant may request from the city an exception to the usual hours of operation. All stands and other vending operations must be removed during non-operating hours.

(3) Handicapped areas. No vendor shall conduct business within twenty feet (20') of any handicapped parking space or access ramp.

(4) Removal of trash. All trash or debris accumulating within fifty feet (50') of any vending stand shall be collected by the vendor and deposited in an authorized trash container. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.

(5) Prohibited areas. A vending license issued pursuant to this chapter is valid only on specified public ways or in public places of the City of Baneberry. The city shall prohibit vendors from selling on specified public ways or in public places if it determines such prohibitions are necessary for the protection of public health and safety. Vendor stands and motor vehicles are prohibited within twenty feet (20') of a fire hydrant, fire escape, loading zone, or the driveway of a fire station, police station or hospital.

(6) Monthly reports. All vendors shall provide a copy of their monthly report of sales tax receipts to the recorder.

- (7) **Motor vehicles.** No vendor vending from a motor vehicle shall:
- (a) Stop, stand or park the vehicle within twenty feet (20') of any intersection, within any other prohibited area, or during prohibited hours; or
 - (b) Conduct business in such a way as would increase traffic congestion or delay, constitute a hazard to life or property, interfere with an abutting property owner, or obstruct access to emergency vehicles. (Ord. #215-11, June 2015)

9-116. Exhibition of permit. Permittees are required to exhibit their permits at the request of any police officer or citizen. (Ord. #215-11, June 2015)

9-117. City police officers to enforce. It shall be the duty of all city police officers to see that the provisions of this chapter are enforced. (Ord. #215-11, June 2015)

9-118. Revocation or suspension of permit. (1) Fraud, misrepresentation, or incorrect statement contained in the application for a permit or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, temporary merchant, seasonal merchant, itinerant merchant, or itinerant vendor.

(2) Any violation of this chapter.

(3) Conviction of any crime or misdemeanor.

(4) Conducting the business of peddler, canvasser, solicitor, transient merchant, temporary merchant, seasonal merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

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

(6) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (Ord. #215-11, June 2015)

9-119. Sales tax receipts and sales documentation. All peddlers, canvassers, solicitors, transient merchants, temporary merchants, seasonal merchants, itinerant merchants and itinerant vendors shall provide the recorder with any and all sales tax receipts and sales information and documentation. This information shall be provided to the recorder by the tenth (10th) day of each month. (Ord. #215-11, June 2015)

9-120. Renewal and reapplication. Licenses may be renewed, provided an application for renewal and license fees are received by the city no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. The city shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this chapter, if the city finds that the application meets the above requirements, the city shall renew said license for a period of one (1) year upon payment of all applicable license fees.

No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (Ord. #215-11, June 2015)

9-121. Sale on public property prohibited. It shall be unlawful for any person, group, company, or corporation to sell, exchange, lease or transfer, or offer to sell, exchange, lease or transfer any tangible personal property of any kind upon any property owned or leased by the city.

(1) This section shall not affect the rights of private property owners to sell, exchange, lease or transfer property of any kind upon private property.

(2) This section shall not apply to vendors participating in a community-wide event sanctioned or sponsored by the city. (Ord. #215-11, June 2015)

9-122. Garage sales. Garage sale items may be set up outside, in carports, under shelter, or on property for a maximum of three (3) days. (Ord. #219-9, Jan. 2020)

9-123. Violations and penalty. The penalty for violation of this section is a maximum fine of fifty dollars (\$50.00). Each day that any violation continues shall constitute a separate offense. However, an offense related to any provision of this chapter which also constitutes an offense to state law shall be punishable in accordance with the applicable state law. (Ord. #215-11, June 2015)

CHAPTER 2

CABLE TELEVISION

SECTION

9-201. To be furnished under franchise.

9-201. To be furnished under franchise. The Competitive Cable and Video Services Act of 2008 essentially grants statewide cable service franchises to those service providers who seek and obtain a state franchise. The Competitive Cable and Video Services Act of 2008, § 7-59-304; Franchise options; negotiated agreements; certificate of franchise authority; (b)(1) provides that the municipal or county franchise is terminated on the date the department Tennessee Regulatory Authority issues the state-issued certificate of franchise authority and no provision of the terminated local franchise is enforceable thereafter, except that until the date upon which the local franchise would have naturally expired, an incumbent cable service provider or entity or person providing cable or video services under a local franchise agreement that is terminated pursuant to this part shall not reduce or otherwise diminish access to cable or video services of any subscriber as of the date of termination if the subscriber does not have access to cable or video services from another local franchise holder or a holder of a state-issued certificate of franchise authority concerned.¹ (Ord. #217-06, March 2017)

¹For complete details relating to the cable television franchise agreement see Ord. #217-06, dated March 2, 2017 in the office of the city recorder.

TITLE 10**ANIMAL CONTROL****CHAPTER****1. ANIMAL CONTROL.****CHAPTER 1****ANIMAL CONTROL****SECTION**

- 10-101. Rabies vaccination and registration required.
- 10-102. Dogs to wear tags.
- 10-103. Running at large prohibited.
- 10-104. Defecation in and/or on other property.
- 10-105. Noisy dogs prohibited.
- 10-106. Vicious dogs to be securely restrained.
- 10-107. Livestock prohibited.
- 10-108. Enforcement.
- 10-109. Violations and penalty.

10-101. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law. (Ord. #207-4, June 2007, modified)

10-102. Dogs to wear tags. It shall be unlawful for any person to own, keep or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (Ord. #207-4, June 2007)

10-103. Running at large prohibited. It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

All dogs outside the owner's domicile must be fully under control by a leash or an approved enclosure. (Ord. #207-4, June 2007)

10-104. Defecation in and/or on other property. It shall be unlawful for any person knowingly to permit any dog or other animal owned by him or under his control to defecate in and or on any property which is not owned by the owner or person having control of the dog or other animal, without cleaning up said feces. (Ord. #207-4, June 2007)

10-105. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (Ord. #207-4, June 2007)

10-106. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (Ord. #207-4, June 2007)

10-107. Livestock prohibited. No person shall own, keep, or harbor any livestock, such as swine, horses, cattle, goats, sheep or any animal or fowl perceived to be commercial livestock, within the corporate limits. (Ord. #207-4, June 2007)

10-108. Enforcement. Any law enforcement officer, the mayor, city commissioners and the city codes enforcement officers, may issue citations for violation of this section. (Ord. #207-4, June 2007)

10-109. Violations and penalty. A violation of any section of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a fine of fifty dollars (\$50.00) plus court cost, for each violation. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #207-4, June 2007)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. HUNTING.
2. OFFENSES AGAINST THE PEACE AND QUIET.

CHAPTER 1

HUNTING

SECTION

11-101. Hunting.

11-101. Hunting. (1) Hunting, trapping and fishing regulation is the domain of the State of Tennessee under the Tennessee Wildlife Resources Agency (TWRA) pursuant to its exclusive authority to administer and enforce Tennessee wildlife statues, regulations and proclamations which prevail over municipal ordinances.

(2) It is unlawful to hunt on private property without first obtaining permission or approval of the owner. *Tennessee Code Annotated*, § 70-4-106.

(3) Private land that has been properly posted by the owner with signs that include the owner's name and address plus the wording "Hunting by Written Permission Only" require that a hunter or trapper carry the owner's written permission or that the owner be present to verify a hunter or trapper's authorization to hunt or trap on the posted property. *Tennessee Code Annotated*, § 70-4-106.

(4) Hunting or shooting from a public right-of-way or across any public roads is prohibited. It is also unlawful to hunt or shoot within one hundred (100) yards of a visible dwelling without the permission of the owner. *Tennessee Code Annotated*, § 70-4-108.

(5) Hunting or killing game from any type of road legal or off-road vehicle or a boat of any type is prohibited. *Tennessee Code Annotated*, § 70-4-109.

(6) Spotlighting deer is prohibited. *Tennessee Code Annotated*, § 70-4-110.

¹Municipal code references

Animal control: title 10.

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

Traffic offenses: title 15.

(7) Hunting or killing any big game during closed seasons is prohibited. *Tennessee Code Annotated*, § 70-4-111. (Hunting seasons vary depending on the type of game and the weapons authorized.)

(8) It is unlawful (criminal trespass) for a person to enter or remain on property, or any portion of property, without the consent of the owner. *Tennessee Code Annotated*, § 39-14-405. (Ord. #216-4, May 2016)

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

- 11-201. Disturbing the peace and quiet.
- 11-202. Anti-noise regulations.
- 11-203. Exceptions.
- 11-204. General provisions.
- 11-205. Violations and penalty.

11-201. Disturbing the peace and quiet. No person shall disturb, tend to disturb or aid in the disturbing the peace of others by violent, tumultuous, or offensive conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control within the corporate limits of the City of Baneberry. The creating of any unreasonably loud, disturbing and unnecessary noise is prohibited; and 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 in the City of Baneberry is prohibited. A person who violates *Tennessee Code Annotated*, § 39-17-305 is also in violation of this section. (Ord. #214-1, March 2014)

11-202. Anti-noise regulations. Subject to the provisions of this resolution, the creating of any unreasonably loud or raucous noise which unreasonably disturbs, injures, or endangers the comfort, repose, or safety of reasonable persons of ordinary sensitivity within the boundaries of the City of Baneberry, Tennessee is prohibited. Noise of such character, intensity, or duration as to be detrimental to the comfort, repose, peace, or health of an individual or that unreasonably interferes with the peace, repose, health, or comfort of neighbors, or their guests, or operators or customers in places of business, or as to detrimentally affect such residence or places of business is also prohibited. The following acts, among others, are declared to be violations of this chapter, but this enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices, etc. The sounding of any horn or other such device on any automobile, motorcycle, truck, or other vehicle except as a danger warning on a public street or public place of the city; any unreasonably loud or harsh sound by any other signaling device; or the sounding of such devices for an unnecessary and unreasonable period of time.

(2) Radio, television, stereos, live bands, amplifiers, loud speakers, drums, etc.

(a) The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, television, live band, amplifiers, loud speakers, or other machine or device for the producing or reproducing of sound in such a manner that is

plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet and comfort of neighbors or passers-by, or inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, chamber, or area in which such live band, machine or device is operated and who are voluntary listeners thereto.

(b) The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, television, live band, amplifiers, loud speakers, or other machine or device for the producing or reproducing of sound between the hours of 11:00 P.M. and 7:00 A.M., Monday through Saturday; between the hours of 11:00 P.M. Saturday and 1:00 P.M. Sunday; and between the hours of 6:00P.M. Sunday and 7:00 A.M. Monday in such a manner as to be plainly audible at a distance of fifty feet (50') from the building, structure or vehicle, area, or property in or upon which any radio receiving set, musical instrument, phonograph, television, live band, amplifiers, loud speakers, or other machine or device for the producing or reproducing of sound is located and unreasonably disturbs the peace, quiet, and comfort of neighbors.

(3) Loud speakers and/or amplifiers for advertising. The unreasonably loud and raucous use or operation of any radio, receiving set, musical instrument, phonograph or stereo, loud speakers, sound amplifier, public address system or other machine or device for the producing or reproducing of sound for the purpose of commercial advertising or attracting the attention of the public to any building, structure or service.

(4) Animals, birds, pets, etc. The keeping of any animals, which by causing, frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(5) Use of vehicles. The use of any automobile, semi-truck, four-wheeler, go-cart, motorcycle, motor bike, or dirt bike in such a manner as to cause loud acceleration, other unreasonably loud noise, and unnecessary grating, grinding, rattling, or other noise.

(a) The use of any vehicle by acceleration or unnecessary braking or creating unnecessary noise otherwise known as squealing of tires.

(b) "Truck tractors and semi-trailers," as defined in *Tennessee Code Annotated*, § 55-1-101, shall not use an engine compression braking device unless the engine compression braking device is equipped with an operational approved muffler. As used in this section, "approved muffler" means any muffler that complies with Federal Motor Carrier Safety Regulations on noise emissions, 49 CFR 325, *et seq.*

(c) The use of any vehicle so out of repair or loaded in such a manner as to cause loud and unnecessary noise.

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

(6) Construction or repair of buildings. The creation of any loud and excessive noise in creation with the erection, including excavation, demolition, alteration or repair of any building in any residential area or section other than between the hours of 7:00 A.M. and 9:00 P.M. except in case of urgent necessity in the interest of public health and safety, and then only with a permit or written authorization from the City of Baneberry Building Inspector or the Baneberry city manager granted for a period while the emergency or urgent public necessity continues, and not for a period exceeding thirty (30) days without re-authorization, or upon a schedule approved by the board of mayor and aldermen. (Ord. #214-1, March 2014, modified)

11-203. Exceptions. Although every effort must be made to minimize noise and its negative impact on residents, none of the terms or prohibitions hereof shall apply to or be enforced against:

(1) Any vehicle of the City of Baneberry or a vehicle contracted by the City of Baneberry while engaged upon necessary public business.

(2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call, the necessary testing of equipment, or acting in time of an emergency.

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

(4) The reasonable use of amplifiers or loud speakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by the city or nonprofit organizations without a permit or a letter of written authorization from the Baneberry City Manager.

(5) Noises of safety signals and warning devices.

(6) Noises resulting from a parade, scheduled outdoor athletic event, fireworks display, or any event which has been sanctioned by the city.

(7) Noises resulting from a street fair, block party, or other special event between the hours of 7:00 A.M. and 11:00 P.M. and approved by the city manager.

(8) Construction operations between the hours of 7:00 A.M. and 9:00 P.M. for which building permits have been issued or construction operations for which no permit is required, provided that all construction equipment is operated according to the manufacturer's specifications and mufflers are maintained in proper working order.

(9) Domestic power tools, lawn mowers, and agricultural equipment between the hours of 8:00 A.M. and 9:00 P.M. provided it is operated properly

with all manufacturers' standard noise-reducing equipment in place and in proper operating condition. (Ord. #214-1, March 2014)

11-204. General provisions. The standards which shall be considered in determining whether a violation of the chapter has occurred shall include, but not be limited to, the following:

- (1) The volume of noise.
- (2) The intensity of noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature and zoning of the area within which the noise emanates.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent, or constant.
- (12) Whether the noise is produced by a commercial or non-commercial activity. (Ord. #214-1, March 2014)

11-205. Violations and penalty. (1) For purposes of this chapter, either the owner, occupant, or manager of real property from which a noise violation originates shall be responsible for remedying the violation and liable for any costs or fines which result from the violation. Further, the sponsor, promoter, and/or producer of any event which is the subject of a noise violation shall also be responsible for remedying the violation and liable for any costs or fines which result from the violation.

(2) Any person or organization found to be in violation of any provision of this section shall receive a citation charging said person or organization with an offense which may result in a fine of not more than fifty dollars (\$50.00) for each separate violation. Upon issuance of a notice of violation, the responsible party shall correct said violation immediately or be cited for an additional violation. The previous sentence shall not limit violations of this chapter to one (1) or two (2) violations. Each time a responsible party fails to immediately correct said violation shall be considered a separate offense and may be dealt with separately. Each time a citation is issued and the responsible party fails to immediately correct said violation, another citation may be issued and another fifty dollar (\$50.00) fine may be levied.

(3) As an additional remedy, and or in lieu of any other remedy available under this section, any violation of any provision of this section shall be deemed and is declared a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

(4) After the issuance of a citation pursuant to this section, if said violation is not corrected by the responsible party, the enforcing officer may issue a notice, directing the responsible party to abate said violation of this section. Failure to comply with the notice shall constitute a violation of this chapter. (Ord. #214-1, March 2014)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. CODES ADOPTED.
2. BUILDING PERMIT FEES AND INSPECTIONS.
3. CONSTRUCTION OF PORCHES AND DECKS.
4. GARAGES, ACCESSORY BUILDINGS, AND CARPORTS.

CHAPTER 1

CODES ADOPTED¹

SECTION

- 12-101. One- and two- family dwelling code adopted.
 12-102. Local modifications.
 12-103. Availability of code for inspection.
 12-104. Violations and penalty.

12-201. One- and two-family dwelling code adopted. Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 25, 26, 27, 28, 29, 30, 31, 32 of the *International Residential Code for One- and Two-Family Dwellings*, 2018 edition, with Appendices B, C, F, N, and P as prepared and adopted by the International Code Council, is/are hereby adopted and incorporated by reference as a part of this chapter, except as otherwise specifically stated herein, and is hereinafter referred to as the "one- and two-family dwelling code." The one- and two-family dwelling code is adopted for the purpose of regulating residential dwelling, including construction, alteration, repair, use, occupancy, location, and maintenance of every detached one- or two-family dwellings and one-family townhouses not more than three (3) stories in height, and their accessory structures. (Ord. #220-06, April 2021)

12-102. Local modifications. (1) The City of Baneberry (hereinafter referred to as the "City") WILL NOT adopt the following chapters: 19, 20, 21, 22, 23, 24, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44.

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.

(2) The City WILL NOT adopt the following appendices: A, C, E, G, H, I, J, K, L, M, O, Q.

(3) When the *International Residential One- and Two-Family Dwelling Code* refers to the duties of certain officials named therein, that designated official in the City, who has duties corresponding to those of the named official in said "code" shall be deemed to be the responsible official insofar as enforcing the provisions of said "code" are concerned.

(4) The following provisions are added at the beginning of the code above

Chapter 1: Administration:

QUALITY CONTROL AND EVALUATION AND CERTIFICATION OF MATERIALS AND WORKMANSHIP IS NOT WITHIN THE PURVIEW OF THIS CODE EXCEPT AS SUCH RELATES TO THE PURPOSES DESCRIBED HEREIN.

THE PERMITTING OR INSPECTION OF ANY BUILDING, PLAN, OR STRUCTURE DESCRIBED IN THIS CODE SHALL NOT BE CONSTRUED OR ACT AS A WARRANTEE OF THE PHYSICAL CONDITION OF ANY BUILDING OR STRUCTURE OR THE ADEQUACY OF ANY PLAN. NEITHER JEFFERSON COUNTY AND/OR ANY AGENT, EMPLOYEE OR REPRESENTATIVE OF JEFFERSON COUNTY SHALL BE LIABLE UNDER ANY THEORY FOR DAMAGES OF ANY KIND, RELATED TO ANY ALLEGED DEFECT, HAZARD, CONDITION, AND/OR INADEQUACY OF ANY KIND OF SUCH BUILDING, STRUCTURE, OR PLAN AND SHALL NOT BE LIABLE FOR ANY ALLEGED FAILURE OF ANY COMPONENT OF SUCH CONSTRUCTION, BUILDING, STRUCTURE OR PLAN, WHICH MAY OCCUR AT ANY TIME, BEFORE, DURING, AND/OR AFTER ANY INSPECTION OR PERMITTING PERFORMED PURSUANT TO THIS CODE.

(5) Further, the following local amendments are hereby adopted:

Section R101.1 Title

Delete "[NAME OF JURISDICTION]" and replace with "City of Baneberry, Tennessee".

Section R102.5 Appendices.

"The following Appendices are specifically included in the adoption. All others are excluded."

At the end of this section, insert the following:

Appendix B: Sizing of Venting Systems Serving Appliances Equipped with Draft Hoods, Category I Appliances, and appliances Listed for Use with Type B Vents.

Appendix C: Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems

Appendix F: Radon Control Methods

Appendix N: Venting Methods

Appendix P: Sizing of Water Piping system

Section 105.2 Work exempt from permit.

Delete Item 1 in its entirety.

Delete "2. Fences not over 7 feet (1829 mm) high," and insert "Fences" in its place.

Table R301.2 (1) Climatic and Geographic Design Criteria.

Insert "10PSF" in the Ground Snow Load.

Insert "90" in the table for Wind Speed.

Insert "NO" in the table for Topographic effects.

Insert "C" in the table for Seismic Design Category.

Insert "Severe" in the table for Weathering.

Insert "12 inches" in the table for Frost Line Depth.

Insert "Moderate to Heavy" in the table for Termite.

Insert "19 degrees Fahrenheit" in the table for Winter Design Temp.

Insert "NO" in the table for Ice Barrier Underlayment Required.

Insert "210" in the table for Air Freezing Index.

Insert "59.4" in the table for Mean Annual Temp.

Flood hazard areas shall be as determined by the FEMA Maps.

Section R301.2.2 Seismic provisions.

Delete item 1, renumber item 2 to item 1 and insert "and townhouses" just after the word dwellings and at the end of the section, insert "All references to "townhouses in seismic design category C" in chapters 6, 7, and 28 shall not apply in Jefferson County."

Section R302.S.1 Opening protection.

Delete the words ", equipped with a self-closing device" and insert a period after the word "door".

Section R303.4 Mechanical ventilation.

Add the word "(Optional)". In the section title after the word ventilation.

Delete the words "the dwelling unit shall be provided with whole-house mechanical ventilation" and replace with the words "dwelling units provided with whole-house mechanical ventilation shall be".

Section R312.2 Window Fall Protection.

Delete section R312.2 and R312.2.1 in their entirety.

Section R313 Automatic Fire Sprinkler System.

Add the words "(Optional, see *Tennessee Code Annotated*, Section 68-120-101(a)(8))." In the section title after the word "systems".

Section R313.1 Townhouses automatic fire sprinkler systems.

Delete the words "an automatic residential fire sprinkler system shall be installed in townhouses." And replace with "When an automatic residential fire sprinkler system is installed in townhouses, the following shall apply":

Section R313.2 One- and two-family dwellings automatic fire sprinkler systems.

Delete the words "an automatic residential fire sprinkler system shall be installed in one- and two-family dwellings." And replace with "When an automatic residential fire sprinkler system is installed in one- and two- family dwellings, the following shall apply":

Section R502.11.4 Truss Design Drawings.

Delete "to the building official and approve prior to installation" and replace it with "for review when required by the building official".

Section R802.10.1 Truss Design Drawings.

Delete "to the building official and approve prior to installation" and replace it with "for review when required by the building official".

Table N1102.1.1 (R402.1.1) Insulation and Fenestration Requirements' By Component.

In the row for climate zone "4 except Marine", Ceiling Value from "R49" to "R-38", and change the Wood Frame Wall R-Value from "20" or 13+5" to "13".

Section N1102.2.6 (R402.2.6) Steel-Frame ceilings, walls, and floors.

After the first occurrence of the word "of" insert "TableN1102.1.1 OR".

Section N1102.4.1.1 (R102.4.1.1) Installation.

Add the words" and visual inspection option." after the word "Installation" in the section title. Add the words ", and be field verified." after the word "construction".

Section N1102.4.1.2 (R402.4.1.2) Testing.

Add the word" (optional)" after the word "Testing" in the section title. Before the first sentence insert "Where required by the building official",

Section N1103.1.1 (R403.1.1) Programmable thermostat.

Add the word"(optional)". After the word "thermostat" in the section title. Before the first sentence insert "Where required by the building official.

Section N1103.2.2 (R403.2.2) Sealing (Mandatory).

Before the words "Duct" insert "Where required by the building official".

Section N1103.6 (R403.6) Mechanical Ventilation (Mandatory).

Delete the word "MANDATORY" and replace with word "Optional" in the section title.

Delete "The building shall be provided with ventilation that meets" and replace with "Buildings provided with ventilation shall meet."

Section N1103.9 (R403.9) Pools and in ground permanently installed spas (Mandatory).

Delete the word "Mandatory" and replace with the word "Optional" in the section title. Before the first sentence insert "Where required by the building official".

Section N1103.10 (R403.10) Pools and permanent spa energy consumption (Mandatory).

Delete the word "Mandatory" and replace with the word "Optional" in the section title. Before the first sentence insert "Where required by the building official".

Section P2603.S.1 Sewer depth.

Delete "(NUMBER)" in two places and insert " twelve inches "in two places.

Section AF103.S.3 Vent Pipe.

At the end of the section insert "Exception: The vent pipe shall be allowed to terminate in the attic and may capped unless tests verify the radon potential to be 4 pCi/L or greater."

Section AF103.12 Power Source.

Delete Section AF103.12 in its entirety. (Ord. #220-06, April 2021)

12-103. Availability of code for inspection. A copy of the *International Residential One- and Two-Family Dwelling Code* shall be filed in the office of the building official, and/or city manager and there kept for public use, inspection and examination. (Ord. #220-06, April 2021)

12-104. Violations and penalty. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code. The city attorney or any official vested with the powers of enforcing the provisions of any code may, in addition to any other remedies provided by law, institute an injunction to prevent the violation of any provision of such

code. Additional and/or supplemental penalties shall also be as described in *Tennessee Code Annotated*, § 6-54-119, or other applicable provision of the *Tennessee Code Annotated*. (Ord. #220-06, April 2021)

CHAPTER 2

BUILDING PERMIT FEES AND INSPECTIONS

SECTION

- 12-201. Building permits.
- 12-202. Plan details.
- 12-203. Building inspections.
- 12-204. Porches, decks, pools and accessory structures.
- 12-205. Relevant ordinances, codes and references.
- 12-206. Enforcement.

12-201. Building permits. (1) Permit requirement. It is unlawful to commence the excavation for the construction of any building, including accessory buildings, or to commence moving or alteration of any building, including accessory buildings until the building official has approved issuance of a building permit for such work, including a statement that the plans, specifications and intended use of such building conform in all respects with the provisions of the Baneberry Zoning Ordinance and Subdivision Regulations.

(2) Form. Application for a building permit shall be made on the Baneberry building permit form available from the city manager or building official.

(3) Documentation required. The following documents must be submitted to the city manager ten (10) days prior to the next scheduled meeting of the Baneberry Planning Commission:

(a) Completed building permit application form.

(b) Septic system permit issued by the Jefferson County Department of Environmental Health. (865-397-1617)

(c) Two (2) copies of a plot plan, prepared, signed, dated and sealed by a surveyor or engineer, currently licensed by the State of Tennessee, showing the:

(i) Location of all lot lines;

(ii) Shape, size, heights, and location of all buildings/structures to be erected, altered, or moved; and location of any buildings already on the lot;

(iii) Location of all setbacks required by the Subdivision Regulations, Ord. #211-5;

(iv) Septic tank and drain field locations;

(v) Extent of all cuts and/or fill; and method(s) of drainage;

(vi) Intended use of all such buildings; and

(vii) Such other information as may be required by the building official.

(d) Two (2) complete sets of building plans (aka: working plans/ blueprints) that:

- (i) Are drafted to scale;
- (ii) Are legible and straight-edge drawn (not pencil or free-hand drawn);
- (iii) Consist of the foundation plan and details;
- (iv) Include floor plans for all levels of the buildings/structures to be erected, altered, or moved;
- (v) Show all bedrooms; and
- (vi) Show the elevations and sections.

(e) Contractor's identification including name of the contractor, the state contractor's license number, and proof of contractor's workers compensation insurance.

(4) Liability. An owner-builder is not required to be licensed; however, the owner-builder will be responsible for any and all liability.

(a) The person responsible for the project should apply for the building permit as that person is responsible for all work and liability.

(b) AM subcontractors must show proof of worker's compensation insurance.

(5) Permit fee. The fee for each of the required inspections is one hundred and seventy-five dollars (\$175.00) per inspection and must be paid by cash or check or fees as later set by resolution of the Baneberry Board of Commissioners.

(6) Approvals. If the proposed excavation or construction, as set forth in the application, is in conformity with the provisions of this chapter, the building official shall issue a building permit for such excavation or construction on city building permit form as detailed herein.

(7) Refusals. If a building permit is refused, the building official shall state such refusal in writing with cause. (Ord. #215-13, July 2015, modified)

12-202. Plan details. (1) Living area. (a) Houses must have the minimum living area for single-family residences as required by the City of Baneberry's Subdivision Regulation, Ord. #211-5; and the Zoning Ordinance, Ord. #212-5, or as specified in the protective and restrictive covenants of the following subdivisions:

(i) Lakeland: one thousand five hundred square feet (1,500 sq. ft.) for single family; one thousand square feet (1,000 sq. ft.) for condos.

(ii) Lands' End: Lots one (1) to twenty-five (25): One (1) story -one thousand six hundred and fifty square feet (1,650 sq. ft.) Two (2) story - nine hundred and fifty (950 sq. ft.) on the first floor and a minimum of one thousand eight hundred (1,800 sq. ft). total. Lots twenty-six (26) thru sixty five (65): One (1) story -one thousand five hundred square feet (1,500 sq. ft.) Two (2) story -

nine hundred and fifty square feet (950 sq. ft.) on the first floor and a minimum of one thousand six hundred and fifty square feet (1,650 sq. ft.) total.

(iii) Nina Ferry Landing: One (1) story - one thousand six hundred and fifty square feet (1,650 sq. ft.) Two (2) story -one thousand two hundred square feet (1,200 sq. ft.) on the first floor and a minimum of two thousand three hundred square feet (2,300 sq. ft.) total.

(b) Garages and porches are not factored into the square footage calculations required by § 12-302, (1)(a)(i), (ii), or (iii), as applicable to the subdivision and lot location.

(2) Lot size. (a) Existing lots must be large enough to provide an adequate building site and the required area for a septic system.

(b) Newly created lots must be a minimum of twenty thousand square feet (20,000 sq. ft.), plus three thousand square feet (3,000 sq. ft.) for each additional unit if building a condo or apartment.

(c) Minimum lot sizes are specified in Article VIII of the Baneberry Zoning Ordinance; Ord. #212-5.

(3) Drainage. (a) The site plan must show method(s), location(s) and flow directions of drainage.

(b) General contractors, subcontractors, lot owners, owner-builders, builder representatives, etc., are not permitted to alter roadside ditches from the approved design without approval of the Baneberry Planning Commission, the Baneberry Road Commission, and the building official.

(c) No alteration in the natural drainage by ditch, culvert, diverter, levee, pipe or other manner shall be allowed upon city right-of-way or easements without the review, and approval of the Baneberry Planning Commission per Baneberry Zoning Ordinance; Ord. #212-5.

(d) Long, steep driveways must be properly drained to prevent excess stormwater from entering and/or flooding the adjacent street/roadway.

(e) All drain pipes under driveways must be a minimum of eighteen inches (18") in diameter; or the applicable size specified in the Baneberry Subdivision Regulation, Ord. #211-5; or as designed and specified by a Tennessee licensed engineer certified in stormwater management and design.

(4) Utility service. All utility service must be installed underground from the service connection to the house/structure.

(5) Plan changes. Once approved, building plans may not be changed without further review and approval from the Baneberry Planning Commission and the building official.

(6) Height of structure. No building or structure shall hereafter be erected or altered so as to exceed the height limit of thirty-five (35') feet unless a special permit has been granted by the Baneberry Board of Zoning Appeals.

(7) Set-backs. The subdivision regulation, Ord. #211-5 applies with the following exceptions:

(a) Lakeland Subdivision - Front set back is fifty-five feet (55') from the center of the existing street. Rear yard, thirty feet (30'); side yards, fifteen feet (15').

(b) Lands' End Subdivision - Thirty feet (30') front and rear; ten feet (10') sides.

(c) Nina Point Subdivision - Thirty feet (30') front and rear; fifteen feet (15') sides.

(8) Right-of-way. Although some improved roadways are not correctly located, a previous agreement by city officials declared that the physical centerline of all improved roadways in the incorporated limits of the City of Baneberry shall be used as the point from which street widths, shoulder widths, drainage locations, easements and lot setbacks are to be determined. The city-wide roadway right-of-way is fifty feet (50') and the cul-de-sac right-of-way is one hundred feet (100') in diameter.

(9) Additions. All construction, design and materials must match the existing structure. If matching materials are no longer available, materials of like kind may be used if approved by the planning commission and building official.

(10) Unimproved roadways. (a) If building on an undeveloped street, the city will not be responsible for its maintenance until such time as the road is improved in accordance with the procedures and standards detailed in the Baneberry Road Commission and Road Policy Ordinance, Ord. #215-12, or until the unimproved roadway is accepted by resolution or ordinance of the Baneberry Board of Commissioners.

(b) The Baneberry Road Commission and Road Policy Ordinance, Ord. #215-12 details the city's road improvement policy for undeveloped streets. The entire cost of roadway, utility, infrastructure, and related improvement costs shall be borne by the land/subdivision developer. Ord. #215-12 details a procedure for land owners in undeveloped areas to request roadway, utility, infrastructure, and related improvements. All costs are borne by the property owners on the undeveloped roadway. (Ord. #215-13, July 2015)

12-203. Building inspections. (1) Purpose. The purpose of building inspection is to ensure the building code, as adopted by city ordinance or resolution, are correctly accomplished so as to protect public health, safety and general welfare as the code relates to the construction and occupancy of residential and commercial buildings and structures.

(2) Inspections. (a) Footing and location inspection. Siting prep will be checked for proper lay-out, setbacks, and septic location. Footings will be checked after they are dug and completely cleaned and all required reinforcing steel is in place, before placement of concrete.

(b) Foundation inspection. Foundations will be checked before framing is started, for anchor bolts, reinforcement, and installation of all other applicable hardware and waterproofing.

(c) Framing inspection. After installation of exterior doors and windows, the rough-in framing will be checked to confirm bearing walls and point loads are transferred all the way to the foundation and that fire blocking and bracing is in compliance.

(d) Final inspection. The building official will inspect to ensure that the house is complete and that all life and safety items meet code.

(3) Other building inspections. Code compliance, where applicable, relative to utility services, specialty installations, and construction finish rests with the installers, contractors, subcontractors and/or the supplying utility or service; (e.g., electricity, water, natural gas, propane, communications, security, automation, etc.).

(4) Premature request for inspection. If the general contractor, owner representative, or owner-builder calls for inspection but is not ready, the responsible party may be charged for an additional inspection.

(5) Certification. Building or fire inspectors, whether municipal, county, or state must be currently certified through the Tennessee State Fire Marshall's Office per *Tennessee Code Annotated*, § 68-120-113 before enforcing applicable fire or building codes.

(6) Reports. The building official shall be seated, ex officio, as a member of the Baneberry Planning Commission to report status of permits and projects to the planning commission who provides zoning, subdivision and building reports to the Baneberry Board of Commissioners. (Ord. #215-13, July 2015, modified)

12-204. Porches, decks, pools and accessory structures.

(1) Special permits. It is unlawful to construct a pool, accessory building, or any type porch, deck, or to replace existing decks or any other additions without first obtaining a permit from the City of Baneberry.

(2) All new decks, porches, or other additions must be attached to the existing house except if a variance is approved by the planning commission board of appeals.

(3) The addition, pool, or accessory building shall not encroach into setback areas unless it is detached from the existing house and allowed under special circumstances in 4.1.(b).

(4) Applicant must submit a building permit application to the building official that is completed in its entirety for all of the requirements listed on the application, as applicable to the pool, accessory building, porch or deck.

(5) A minimum of one (1) inspection shall be required. Foundations, footings and all other structural connections must be exposed at the request of the building official. The construction must meet all requirements of the building codes currently in effect by Baneberry ordinance or resolution. A permit fee shall be charged for one (1) inspection, at the rate at the time of application.

(6) Walls and roofs of additions, porches, decks, and accessory buildings must be constructed to match the existing house unless otherwise approved by the Baneberry Planning Commission and building official.

(7) The permit may be waived for repairing existing porches, decks, accessory buildings or pools if the existing foundation and all other structural aspects satisfactorily meet or exceed current in-place codes and regulations, and the structural integrity is not disturbed.

(8) Concrete slabs, without a roof or enclosure do not require a permit. (Ord. #215-13, July 2015)

12-205. Relevant ordinances, codes, and references. The following ordinances, codes and references apply to and set standards for any work being conducted within the incorporated area of the City of Baneberry, Tennessee or its authorized area of planning jurisdiction, whether that work is new construction; addition; modification; renovation; demolition; removal; replacement or maintenance of new homes, condos, townhouses, commercial buildings, public buildings or facilities; or road and/or roadside cutting, ditching, trenching, drilling, tunneling, or paving; utility installation, maintenance, addition, or replacement; or Planned Urban Development (PUD) or subdivision development, etc.

(1) Ordinance 212-5: Zoning Ordinance, Ord. #212-5.

(2) Ordinance 211-5: Revised Subdivision Regulations.

(3) Ordinance 212-3: Municipal Flood Damage Prevention Ordinance.

(4) The most current editions, as adopted by Baneberry City Ordinance, of the:

(a) *International Building Code (IBC).*

(b) *International Residential Code for One- and Two- Family Dwellings (IRC).*

(c) *International Plumbing Code (IPC).*

(d) *International Mechanical Code (IMC) International Fuel Gas Code (IFGC).*

(e) *International Energy Conservation Code (IECC.)*

(f) *International Fire Code (IFC);* each as amended by adopting ordinance.

(5) The most current edition of the *Model Energy Code*, by the Council of American Building Officials, in accordance with *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506.

(6) Ordinance 215-9: Adopting *International Property Maintenance Code (IPMC).*

(7) *Better Site Design: A Handbook for Changing Development Rules in Your Community*, Center for Watershed Protection, Ellicott City, Maryland, 1998. (Ord. #215-13, July 2015)

12-206. Enforcement. (1) Building official. (a) The provisions of this chapter shall be administered and enforced by the building official.

(b) The building official shall have the right to enter upon any premise necessary to carry out his duties in the enforcement of this chapter.

(c) The building official shall inspect all construction requiring a building permit a minimum of four (4) times, except as otherwise noted in this chapter.

(2) Certificate of occupancy. (a) Certification of completion. Upon completion of the construction or alteration of a building for which a building permit has been granted, a site plan, certified by a registered surveyor or engineer, showing the finished location of all structures on the lot shall be submitted to the Baneberry building official with a request for a certificate of occupancy.

(b) Approvals. Within three (3) days of such application, the building official shall make a final inspection of the property in question, and if the building or structure is found to conform to the provisions of the chapter and the statements made in the application for the building permit, the building official or city manager shall issue a certificate of occupancy.

(c) Refusals. If such a certificate is refused, the building official shall state such a refusal in writing with the cause. No land or building hereafter erected or altered in its use, shall be used until such a certificate of occupancy has been granted.

(3) Penalties and remedies. (a) Compliance. It shall be unlawful for any person to violate or fail to comply with the provisions of the building code of the City of Baneberry. The violation of any section of this chapter shall be punishable by a penalty up to fifty dollars (\$50.00), plus court cost. Each day a violation is allowed to continue shall constitute a separate offense.

(b) Code availability. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, each of the code books is available for public review at city hall.

(c) Injunctions. In case any building, pool, porch, deck, accessory building, or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, pool, structure, or land is used in violation of this chapter, the building official or any other appropriate authority may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy or use of such building, pool, structure, or land.

(d) Appeals. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building official based in the whole or part on provisions of this chapter as provided in Baneberry's zoning ordinance.

(e) Variances. A request may be made by any person, firm or corporation for a variance from the terms of this chapter; the Baneberry Zoning Ordinance, Ord. #212-5; the Baneberry Subdivision Regulations, 211-5; and the building ordinances, rules, regulations and codes identified by this chapter.

(f) Rationale. Variance requests may be made where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this section was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation or conditions of a piece of property, the strict application of the provisions of this chapter would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.

(g) Applicability. This section cannot and does not cover all of the details regarding safe, efficient and effective construction, renovation, relocation, demolition or disposal of residential and commercial buildings, pools, porches, decks, accessory buildings, etc. The details provided in the codes, references and ordinances cited in § 12-305 must be applied in total, and as excepted, edited, or excluded by the adopting ordinances, as applicable, by all involved in the renovation, construction and inspection processes. (Ord. #215-13, July 2015)

CHAPTER 3

CONSTRUCTION OF PORCHES AND DECKS

SECTION

12-301. Permit required.

12-302. Decks, porches and similar structures must be attached to existing house.

12-303. Decks, porches, and similar structures shall not encroach into setback areas.

12-304. Exceptions.

12-305. Application for permit.

12-306. Inspection required.

12-307. Walls and roofs to match existing house.

12-308. Permit may be waived.

12-301. Permit required. It shall be unlawful to erect any type of porch, deck, replace existing decks or any other addition without first obtaining a permit from the City of Baneberry. (1999 Code, § 12-301)

12-302. Decks, porches and similar structures must be attached to existing house. All new decks, porches and similar structures must be attached to the existing house and must be approved by the planning commission. (Ord. #220-05, Feb. 2021)

12-303. Decks, porches, and similar structures shall not encroach into setback areas. New decks, porches, and similar structures shall not encroach into setback areas. (Ord. #220-05, Feb. 2021)

12-304. Exceptions. Concrete slabs, without a roof or enclosure, do not require a permit. (1999 Code, § 12-304)

12-305. Application for permit. Applicant must submit an application for permit to the city manager. The application shall be filled out completely and all of the requirements stated on the application must be met. If there are no "special circumstances" attached to the project, the city manager may, at his discretion, issue a permit without the planning commission's approval. (1999 Code, § 12-305)

12-306. Inspection required. A minimum of one (1) inspection shall be required. Foundations, footings and all other structural connections must be exposed at the request of the inspector. The construction must meet all requirements of the in-place building codes. A permit fee shall be charged for one (1) inspection, at the rate at the time of application. (1999 Code, § 12-306)

12-307. Walls and roofs to match existing house. Walls and roofs must be constructed to match the existing house unless approved otherwise by the planning commission. (1999 Code, § 12-307)

12-308. Permit may be waived. The permit may be waived for repairing existing porches if the existing foundation and all other structural aspects satisfactorily meet or exceed current in place codes and regulations and the structural integrity is not disturbed. (1999 Code, § 12-308)

CHAPTER 4

GARAGES, ACCESSORY BUILDINGS, AND CARPORTS

SECTION

- 12-401. Permit and inspections required.
- 12-402. Garages, pool houses, and accessory buildings must comply with existing codes.
- 12-403. Garages, gazebos, accessory buildings, pavilions and pool houses shall be limited in size.
- 12-404. Limits on the number of garages and accessory buildings.
- 12-405. Height of garage, pool house, accessory building, or gazebo.
- 12-406. Location of accessory structures, pool houses, and gazebos.
- 12-407. Garages and accessory buildings shall not be used as a residence.
- 12-408. Garages, etc. shall not be built on a vacant lot.
- 12-409. Special circumstances and variances.
- 12-410. Carport criteria.
- 12-411. Gates and posts.

12-401. Permit and inspections required. A permit and applicable inspections shall be required of all garages, pool houses, accessory buildings, and gazebos. (Ord. #220-05, Feb. 2021)

12-402. Garages, pool houses, and accessory buildings must comply with existing codes. Garages, pool houses, and other accessory buildings may be detached from the home but must comply with all building and zoning codes including setback requirements. Gazebos must also comply with setback requirements. Pre-fabricated accessory buildings are allowed if criteria is met. (Ord. #220-05, Feb. 2021, modified)

12-403. Garages, gazebos, accessory buildings, pavilions and pool houses shall be limited in size. Garages shall not exceed in size seventy-five percent (75%) of the main floor of the house and in no case shall exceed one thousand five hundred (1,500) square feet. The farthest point of a garage shall in no case exceed sixty feet (60') from the back of the house. The front of the garage can start halfway back from the front line of the house. Pool houses shall not exceed five hundred (500) square feet in size and accessory buildings and gazebos shall not exceed two hundred twenty-five (225) square feet in size. (Ord. #220-05, Feb. 2021)

12-404. Limits on the number of garages and accessory buildings. No property shall have more than one (1) detached garage. If a property has a detached garage it shall have no more than one accessory building. The

detached garage must remain detached as it was originally approved. (Ord. #220-05, Feb. 2021)

12-405. Height of garage, pool house, accessory building, or gazebo. No garage, pool house, accessory building or gazebo shall be greater in height than that of the existing home and in no case shall be more than one (1) story in height. (Ord. #220-05, Feb. 2021)

12-406. Location of accessory structures, pool houses, and gazebos. No accessory structure, pool house, or gazebo shall be allowed in any front yard or to extend past the front line of the house. (Ord. #220-05, Feb. 2021)

12-407. Garages and accessory buildings shall not be used as a residence. In no case shall a detached garage or accessory building be used as a residence/living quarters. (Ord. #220-05, Feb. 2021)

12-408. Garages, etc. shall not be built on a vacant lot. No garage, accessory building, pool house, or gazebo shall be built on a vacant lot. Any lot on which these structures are built must already contain a house and a septic system. Approval must be obtained from the health department that a garage or accessory building will not encroach on the drainfield or reserve area. (Ord. #220-05, Feb. 2021)

12-409. Special circumstances and variances. Variances related to this section must be approved by the planning commission or zoning board of appeals, as applicable. (Ord. #220-05, Feb. 2021)

12-410. Carport criteria. Carports must adhere to the following criteria:

- (1) Must not be used as a storage unit.
- (2) Exterior must match exterior of house.
- (3) Will allow autos, RVs, campers, boats, golf carts, jet skis.
- (4) Must be on a concrete slab.
- (5) Only one (1) carport is allowed.

12-411. Gates and posts. Gates and posts must not encroach on rights-of-way, must be outside of utility easements, and materials must meet fence material guidelines.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNKED MOTOR VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Overgrown and dirty lots.
- 13-105. Weeds and brush.
- 13-106. Height of vegetation in residential areas.
- 13-107. Dead animals.
- 13-108. Health and sanitation nuisances.
- 13-109. Sewage systems.
- 13-110. Materials for filling real property.
- 13-111. Outside storage.
- 13-112. Use of the mail center.
- 13-113. Violations and penalty.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the mayor, city board of commissioners, or city manager shall appoint or designate to administer and enforce health and sanitation regulations within the city. (Ord. #215-9, June 2015)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. #215-9, June 2015)

¹Municipal code references
 Animal control: title 10.
 facilities in beer places: § 8-110(9).

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pond or pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (Ord. #215-9, June 2015)

13-104. 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 registered or certified United States Mail, addressed to the last known address of the owner of record. If no valid last known address exists for the owner of record, the city may publish the notice in a newspaper of general circulation in the county for two (2) consecutive issues, or personally deliver notice to owner. 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 § 13-104 of the Baneberry 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 Jefferson 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 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.

13-105. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the recorder to cut such vegetation when it has reached a height of over one foot (1').

13-106. Height of vegetation in residential areas. (1) Grass, weeds, and vegetation in residential parts of the city shall not be taller than twelve inches (12"). Owner of such property is responsible for compliance of this directive.

(2) Property owners area also responsible for curbs and culverts making certain they are clear of weeds and clippings.

(3) It is illegal to place leaves, clippings and debris on property other than your own. (Ord. #219-9, Jan. 2020)

13-107. 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. (Ord. #215-9, June 2015)

13-108. 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. (Ord. #215-9, June 2015)

13-109. Sewage systems. It shall be unlawful for any property owner to allow the escape of sewage waste (solid or liquid) from treatment systems, tanks, lines, etc. on their property. Also any alternative sewage systems must

be maintained according to the manufacturer's specifications and state regulations. The health officer or city manager shall notify the appropriate State of Tennessee official whenever a violation is noted. (Ord. #215-9, June 2015)

13-110. Materials for filling real property. It shall be unlawful for any person to fill or dump or to permit anyone to fill or dump any material on their property other than dirt, rock or stone without obtaining approval, in writing, from the city health officer. (Ord. #215-9, June 2015)

13-111. Outside storage. Unless otherwise specifically allowed by law, it shall be unlawful to store items of personal property out-of-doors, or outside a building or structure that is not wholly enclosed with the following exceptions:

- (1) Firewood that is stacked and useable.
- (2) Construction material, if the material is stored in a manner to protect its utility and prevent its deterioration and the material is reasonably expected to be used for construction on the premises.
- (3) All other items of personal property which are of a type, condition or quantity consistent with normal and intended use outdoors. By way of illustration, these items of personal property include barbeque grills, play pools, play/swing sets, spas, hoses/hose reels, trampolines, landscaping and architectural features, lawn furniture, solid waste disposal containers, boats, boats on boat trailers, campers, utility trailers, and recreational vehicles. (Ord. #215-9, June 2015)

13-112. Use of the mail center. (1) It shall be unlawful for anyone to use the mail center or the mail center access road except for mail delivery or mail retrieval or as otherwise directed by the proper authorities.

(2) It shall be unlawful to use the mail center access road as a "short cut" or an alternate route to the dedicated city streets or to otherwise violate the posted signs such as driving the "wrong way" in the one-way sections.

(3) It shall be unlawful to use the mail center access road for recreational purposes, such as skate boarding, bicycle riding, horseback riding or other uses that could be determined to be recreational.

(4) It shall be unlawful for anyone to mutilate, deface or in any way, maltreat any and all properties located within the described boundaries herein, including the mail center, mail center access road, signs and the entire landscape of the property.

(5) Any law enforcement officer, the mayor, city commissioners and the city codes enforcement officer may issue citations for violation of this section.

(6) Any violation of this section shall be subjected to a fine of fifty dollars (\$50.00) if adjudged guilty of the violation. (Ord. #220-04, Nov. 2020)

13-113. Violations and penalty. Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and shall be fined in

accordance with the general penalty clause for this code. Each day in which such violation shall continue shall be deemed a separate offense. (Ord. #215-9, June 2015)

CHAPTER 2**JUNKYARDS****SECTION**

13-201. Junkyards.

13-201. Junkyards. All junkyards within the corporate limits 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 feet (6') 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. (Ord. #215-9, June 2015)

CHAPTER 3

JUNKED MOTOR VEHICLES

SECTION

- 13-301. Definitions.
- 13-302. Declared public nuisance.
- 13-303. Order to remove.
- 13-304. Removal by city.
- 13-305. Exceptions.
- 13-306. Violations and penalty.

13-301. Definitions. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein:

- (1) "Junked motor vehicles." Any motor vehicle the condition of which is one (1) or more of the following:
 - (a) Wrecked.
 - (b) Dismantled.
 - (c) Inoperative.
 - (d) Abandoned.
 - (e) Discarded.
- (2) "Motor vehicle." Any vehicle which is self-propelled and any device in, upon, or by which any person or property is or may be transported or drawn from one (1) location to another, except devices moved only by human power or used exclusively upon stationary rails or tracks. (Ord. #215-9, June 2015)

13-302. Declared public nuisance. The location or presence of any junked motor vehicle on any lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the city, shall be deemed a public nuisance and it shall be unlawful for any person to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperable, abandoning, or discarding a motor vehicle on the property of another, or to suffer, permit, or allow the same to be placed, located, maintained, or to exist upon his own real property.

This section shall not apply to:

- (1) Any junked motor vehicle in an enclosed building.
- (2) Any junked motor vehicle in an appropriate storage place of depository maintained in an officially designated place and manner by the city. (Ord. #215-9, June 2015)

13-303. Order to remove. Whenever any junked motor vehicle is found in the city in violation of this section, the recorder shall cause the owner or occupant of the premises on which such vehicle is located to be served with an

order to remove such vehicle within ten (10) days after service of such order. It shall be unlawful for the owner or occupant of the premises to fail, neglect, or refuse to obey such order within ten (10) days after service of the same. (Ord. #215-9, June 2015)

13-304. Removal by city. If the premises on which a junked motor vehicle is located contrary to this chapter are unoccupied and the owner or agent thereof cannot be found, or if he has permission of the owner of the premises, the recorder shall abate such public nuisance by entering upon the property and impounding and taking into custody the motor vehicle and disposing of same in accordance with *Tennessee Code Annotated*, title 55, chapter 16. Such impoundment and disposition shall not relieve any person from liability for penalty upon conviction for violating other provisions of this chapter, but is in addition to any other penalty. (Ord. #215-9, June 2015)

13-305. Exceptions. The provisions of this section shall not apply to:

- (1) Vehicles in operable condition specifically adapted or constructed for racing or operation on privately owned drag strips or raceways.
- (2) Vehicles stored by a member of the Armed Forces of the United States who is on active duty assignment, and stored with the permission of the property owner. (Ord. #215-9, June 2015)

13-306. Violations and penalty. Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and shall be fined in accordance with the general penalty clause for this code. Each day in which such violation shall continue shall be deemed a separate offense. (Ord. #215-9, June 2015)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. SIGN REGULATIONS.
4. FENCE REGULATIONS.
5. FLOOD DAMAGE PREVENTION.

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

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

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 membership of the Baneberry Municipal Planning Commission is hereby reduced from nine (9) to seven (7) members. Five (5) of the members shall be Baneberry residents who may be appointed or removed at the discretion of the mayor. The terms shall be arranged so that at least one (1) planning commissioner's term expires each year. Two (2) of the members shall be the mayor or his designee and a city commissioner chosen by the city commission. Their terms shall be coterminous with their terms of elected office. (1999 Code, § 14-202, as amended by Ord. #219-5A, June 2019)

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. (1999 Code, § 14-202)

CHAPTER 2

ZONING ORDINANCE¹

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 Baneberry shall be governed by Ord. #212-5, titled "Zoning Ordinance, Baneberry, Tennessee," and any amendments thereto. (Ord. #212-5, Oct. 2012, as amended by Ord. #213-5, ___ ___)

¹Ord. #212-5, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

SIGN REGULATIONS

SECTION

- 14-301. Purpose.
- 14-302. Permits required.
- 14-303. Permit exempt signs.
- 14-304. Prohibited signs.
- 14-305. Maintenance of signs.
- 14-306. Enforcement.
- 14-307. Appeals.

14-301. Purpose. The purpose of this section is to regulate on-site signs and outdoor advertising so as to protect the health, safety, and general welfare; property values; and to protect the character of the various neighborhoods and in general, the City of Baneberry. (Ord. #210-4, Sept. 2010)

14-302. Permits required. (1) No fee shall be charged for obtaining a sign permit.

(2) The following signs shall be allowed, provided that the individual or business enterprise obtains a permit from the City of Baneberry Planning Commission after said commission has approved the same.

(a) Business signs. One (1) sign for each application submitted, provided that no ground sign may be erected unless such use is of a commercial nature. No sign shall exceed twenty-five (25) square feet in area, be higher than eight feet (8') above grade if a ground sign, or extend above the first story of the buildings if commercial wall signs.

(b) Monument signs. One (1) permanent sign per subdivision entrance area, which does not exceed twenty-five (25) square feet in area for the sign face with an additional forty-eight (48) square feet allowed for a base consisting of brick or stone framework and not to exceed a maximum height of eight feet (8').

(3) Application for a sign permit shall contain the following information:

- (a) Name, address, and phone number of the applicant.
- (b) Location of the building, structure, or lot to which or upon which the sign is to be attached or erected.
- (c) Position of the sign in relation to nearby buildings or structures and to property lines.
- (d) One (1) blueprint or ink drawing of the plans and specifications, to include wording on the sign, design of sign construction, materials, and method of attachment to the building or the ground.
- (e) Names of persons erecting the structures.

(f) Such other information as the planning commission may require showing full compliance with the article. (Ord. #210-4, Sept. 2010)

14-303. Permit exempt signs. The following signs are specifically exempt from the sign permit requirements, but are subject to the following regulations and standards:

(1) Construction signs. Provided that there shall be only one (1) such sign per development project; with a maximum height of six feet (6') and not exceeding twenty-five (25) square feet; setback a minimum ten feet (10') from any property line or public street right-of way; and that such signs shall be erected during the construction period only and shall be removed fourteen (14) days after an occupancy permit is issued.

(2) Flags. Insignia of any nation, state, community, Armed Forces, or organization.

(3) Garage and yard sale signs. Provided that the signs comply with the following regulations:

(a) A garage or yard sale sign may be erected forty-eight (48) hours prior to the advertised day of the sale.

(b) The sign shall not exceed eight (8) square feet in area and in no way obstruct the vision of vehicle traffic.

(c) Signs will be allowed only in front of the dwelling where the sale is taking place.

(d) The signs shall not be attached to any tree or utility pole in the road right-of-way.

(e) All signs shall be removed within twenty-four (24) hours upon closing the garage or yard sale.

(4) Public signs. Signs of a non-commercial nature and in the interest of, erected by, or on the order of a public officer or codes enforcement officer in the performance of public duty, such as directional signs, regulatory signs, warning signs, and information signs.

(5) Political signs. Temporary political campaign signs announcing candidates seeking public political office and other election issues pertinent thereto shall be permitted up to a total of eight (8) square feet for each sign. These signs shall be confined within private property and shall not encroach into the visibility triangle at street intersections. These signs may be displayed sixty (60) days prior to and up to twenty-four (24) hours after the election for which intended. Signage is not allowed in public right-of-way.

(6) Real estate signs. Real estate signs in residential areas, which are freestanding (such as lawn signs) offering an open house on the premises or offering the premises on which they are located "for sale" or "for rent," providing that there shall not be more than one (1) sign per parcel, except that on a corner parcel, lake front parcel, or parcel abutting the golf course, two (2) signs are permitted. Signs shall not exceed four (4) square feet and shall be removed

within fifteen (15) days after sale or rental of property. Signage is not allowed in public right-of-way. (Ord. #210-4, Sept. 2010)

14-304. Prohibited signs. Unless otherwise permitted by this chapter, by variance or by legal nonconforming status, the following signs shall not be permitted:

(1) Signs which are a size, location, movement, content, coloring, or manner of illumination which may cause confusion or obstruct the view in any direction at a street or road intersection.

(2) Signs in any public right-of-way, except as allowed by the city commission of the City of Baneberry.

(3) Signs that are pasted or attached to utility poles or signs placed upon trees, fences, rocks or in an unauthorized manner to walls or other signs.

(4) Signs advertising activities that are illegal under federal, state, or city laws or regulations.

(5) All portable or non-structural signs except as allowed under other sections of this chapter. For purpose of this chapter, a sign shall be considered non-structural if it has no permanently mounted, self-supporting structure or is not an integral part of a building to which it is accessory.

(6) Flashing signs with moving or blinking lights, or signs with exposed incandescent light bulbs.

(7) String of lights or pennants used for commercial purposes except for holidays and city events.

(8) A rotating search light or similar device that emits beams of light.

(9) Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, or is not kept in good repair, or is capable of causing electrical shock to persons likely to come in contact with it.

(10) Any sign unlawfully installed, erected, or maintained.

(11) Billboards, or any surface whereon advertising matter is set in view conspicuously and which advertising does not apply to the premises or any use of the premises wherein it is displayed or posted. (Ord. #210-4, Sept. 2010)

14-305. Maintenance of signs. (1) All signs and sign components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair.

(2) All ground signs and the premises surrounding the same shall be maintained by the owner in a clean, sanitary, and inoffensive condition, being free and clear of all noxious substances, rubbish, and weeds.

(3) If the codes enforcement officer shall find that any sign is unsafe or insecure, inadequately maintained, or is a menace to the public, written notice shall be given to the owner, agent, or person having the beneficial interest in the building or the premises on which sign is located. (Ord. #210-4, Sept. 2010)

14-306. Enforcement. The codes enforcement officer is hereby charged with enforcement of this chapter. He or she shall notify all persons violating any of the provisions of this chapter, by hand-delivered or certified mail, and shall, in the notice give the violator reasonable time, but in no event longer than three (3) days, in which to remedy the violation. If a person fails to remedy the violation within the specified time, the codes enforcement officer has the authority to issue an ordinance violation citation and subject the violator to a fifty dollar (\$50.00) fine for each day the violation continues. (Ord. #210-4, Sept. 2010)

14-307. Appeals. The zoning board of appeals may, in its discretion, vary or adapt the strict application of any of the requirements of this chapter in the case of exceptional conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the applicant for such variance of the reasonable use of his land or building involved, but in no other case. (Ord. #210-4, Sept. 2010)

CHAPTER 4

FENCE REGULATIONS¹

SECTION

14-401. Fence regulations.

14-401. Fence regulations. Fence regulations for the City of Baneberry are incorporated by reference as if fully set out. (Ord. #2021-02, Aug. 2021)

¹Fence regulations, and any amendments, are available in the recorder's office.

CHAPTER 5

FLOOD DAMAGE PREVENTION

SECTION

- 14-501. Statutory authorization, findings of fact, and objectives.
- 14-502. Definitions.
- 14-503. General provisions.
- 14-504. Administration.
- 14-505. Provisions for flood hazard reduction.
- 14-506. Variance procedures.
- 14-507. Legal status provisions.

14-501. Statutory authorization, findings of fact, and objectives.

(1) Statutory authorization. The legislature of the State of Tennessee has in *Tennessee Code Annotated*, § 6-19-101 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Baneberry, Tennessee, Mayor and its legislative body do ordain as follows.

(2) Findings of facts. (a) The City of Baneberry Tennessee, mayor and its legislative body wishes to establish eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in 44 CFR, ch. 1, section 60.3.

(b) Areas of the City of Baneberry Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This section is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this section are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area; and

(h) To establish eligibility for participation in the NFIP. (Ord. #212-3, Aug. 2012)

14-502. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one foot (1') to three feet (3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and determinate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard." See "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building." See "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures." See "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to

water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the secretary of the interior; or

(d) Individually listed on the City of Baneberry, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the secretary of the interior; or

(ii) Directly by the secretary of the interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood-resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(40) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood." See "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency" the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure" for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged

condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

- (a) The appraised value of the structure prior to the start of the initial improvement; or
- (b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(c) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(d) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this chapter.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #212-3, Aug. 2012)

14-503. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of Baneberry, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Baneberry, Tennessee, as

identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47089C0200 dated Dec. 16, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Baneberry, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Violations and penalty. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Baneberry, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #212-3, Aug. 2012)

14-504. Administration. (1) Designation of ordinance administrator. The building official is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit within an AE Zone shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in §§ 14-505(2) and § 14-505(2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the

lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(c) Duties of the administrator shall include, but not be limited to, the following:

(i) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(ii) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344.

(iii) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(iv) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(v) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(vi) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-504(2).

(vii) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-504(2).

(viii) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-504(2).

(ix) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped

boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(x) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Baneberry, Tennessee FIRM meet the requirements of this chapter.

(xi) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #212-3, Aug. 2012)

14-505. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1344;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-505(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction; and

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-505(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-502). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood

hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-502). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "enclosures" non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-504(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade; and

- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- (iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-505(2).
- (d) Standards for manufactured homes and recreational vehicles.
- (i) All manufactured homes placed, or substantially improved, on:
- (A) Individual lots or parcels;
- (B) In expansions to existing manufactured home parks or subdivisions; or
- (C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
- (A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or
- (B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-502).
- (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of §§ 14-502(1) and 14-502(2).
- (iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (v) All recreational vehicles placed in an identified special flood hazard area must either:
- (A) Be on the site for fewer than one hundred and eight (180) consecutive days;
- (B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed,

on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-505(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-503(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the

effective flood insurance study for the City of Baneberry, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of §§ 14-505(1) and 14-505(2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-503(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of §§ 14-505(1) and 14-505(2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-503(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see subsection (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of §§ 14-505(1) and 14-505(2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-502). All applicable data including elevations or

floodproofing certifications shall be recorded as set forth in § 14-504(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-505(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Baneberry, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of §§ 14-505(1) and 14-505(2). Within approximate A Zones, require that those subsections of 14-505(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-503(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one foot (1') to three feet (3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in §§ 14-505(1) and 14-505(2), apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-505(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM,

with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-504(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-503(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-504 and § 14-505 shall apply.

(8) Standards for unmapped streams located within the City of Baneberry, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with § 14-504 and § 14-505. (Ord. #212-3, Aug. 2012, modified)

14-506. Variance procedures. (1) Board of floodplain review. (a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: How taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of the actual amount for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than sixty (60) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Baneberry, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-506(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #212-3, Aug. 2012)

14-507. Legal status provisions. (1) Conflict with other ordinances.

In case of conflict between this section or any part thereof, and the whole or part of any existing or future section of the City of Baneberry, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this section which is not of itself invalid or unconstitutional.

(3) Effective date. This section shall become effective immediately after its passage, in accordance with the charter of the City of Baneberry, Tennessee, and the public welfare demanding it. (Ord. #212-3, Aug. 2012)

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING****CHAPTER**

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

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

- 15-101. Motor vehicle requirements.
- 15-102. Valid license and registration required.
- 15-103. Obedience to any required traffic-control device.
- 15-104. Driving on right side of roadway.
- 15-105. Passing vehicles proceeding in opposite directions.
- 15-106. Overtaking a vehicle on the left.
- 15-107. When overtaking a vehicle on the right is permitted.
- 15-108. No-passing zones.
- 15-109. Driving on roadways laned for traffic.
- 15-110. Following too closely.
- 15-111. Operation of vehicles on approach of authorized emergency vehicles.
- 15-112. Drivers to exercise due care.
- 15-113. Limitations on backing.
- 15-114. Riding on motorcycles.
- 15-115. Obstruction to driver's view of driving mechanism.
- 15-116. Following fire apparatus prohibited.
- 15-117. Crossing fire hose.
- 15-118. Putting glass, nails and other substances on roadway prohibited.
- 15-119. Traffic laws apply to persons riding bicycles.
- 15-120. Riding on bicycles - playing and use of play vehicles.
- 15-121. Clinging to vehicles.
- 15-122. Riding on roadways and bicycle paths.
- 15-123. Bicycle lamps and brakes.
- 15-124. Rights and duties of motorcycle operator.
- 15-125. Operation of motorcycles on laned roadways.

- 15-126. Use of off-roadway motor vehicles on highways.
- 15-127. Transporting child in truck bed.
- 15-128. Excessive noise from motor vehicles.
- 15-129. Use of safety belts in passenger vehicles.
- 15-130. Child passenger restraints.
- 15-131. Testing or demonstrating driving skills.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate a motor vehicle within the city's corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment required by *Tennessee Code Annotated*, title 55, chapter 9. (1999 Code, § 15-101)

15-102. Valid license and registration required. No person shall drive any motor vehicle upon a roadway within the city's corporate limits unless such person has and possesses a valid driver's license for the type or class of vehicle being driven and the vehicle a person is driving is properly registered under the laws of the State of Tennessee. (1999 Code, § 15-102)

15-103. Obedience to any required traffic-control device. (1) The driver of any vehicle and the operator of any streetcar shall obey the instructions of any official traffic-control device unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (1999 Code, § 15-104)

15-104. Driving on right side of roadway. (1) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

- (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (b) When the right half of a roadway is closed to traffic while under construction or repair;
- (c) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or
- (d) Upon a roadway designated and signposted for one-way traffic.

(2) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing

shall be driven in the right-hand lane then available for traffic, or 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 at an intersection or into a private road or driveway. (1999 Code, § 15-105)

15-105. Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one-half (1/2) of the main-traveled portion of the roadway as nearly as possible. (1999 Code, § 15-106)

15-106. Overtaking a vehicle on the left. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking 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 roadway until safely clear of the overtaken vehicle; and

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle. (1999 Code, § 15-107)

15-107. When overtaking a vehicle on the right is permitted. (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction; and

(c) Upon a one-way street, or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway. (1999 Code, § 15-108)

15-108. No-passing zones. The board of commissioners is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof. (1999 Code, § 15-109)

15-109. Driving on roadways laned for traffic. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation;

(3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such sign; and

(4) (a) Where passing is unsafe because of traffic in the opposite direction or other conditions, a slow-moving vehicle, including a passenger vehicle, behind which five (5) or more vehicles are formed in line, shall turn or pull off the roadway wherever sufficient area exists to do so safely, in order to permit vehicles following it to proceed. As used in this § 15-109(4), a slow-moving vehicle is one (1) which is proceeding at a rate of speed which is ten (10) miles per hour or more below the lawful maximum speed for that particular roadway at that time.

(b) Any person failing to conform with the provisions of § 15-109(4)(a) shall receive a warning citation on first offense and be liable for a fine of twenty dollars (\$20.00) on second offense, and fifty dollars (\$50.00) on third and subsequent offenses.

(c) Section 15-109(4)(a) shall not apply to funeral processions nor to school buses. (1999 Code, § 15-110)

15-110. 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 and 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 (1-1/2) 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 within 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. (1999 Code, § 15-111)

15-111. Operation of vehicles on approach of authorized emergency vehicles. (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only:

(a) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer; and

(b) Upon the approach of an authorized emergency vehicle, as above stated, the operator of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) Upon approaching a stationary authorized emergency vehicle, when such vehicle is giving a signal by use of flashing lights, a person who drives an approaching vehicle shall:

(a) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less

than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(b) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(3) Upon approaching a stationary recovery vehicle or a highway maintenance vehicle, when such vehicle is giving a signal by use of authorized flashing lights, a person who drives an approaching vehicle shall:

(a) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to the stationary recovery vehicle or the highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(b) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(4) For the purpose of this section unless the context otherwise requires:

(a) "Highway maintenance vehicle" means a vehicle used for the maintenance of highways and roadways in this state and is:

(i) Owned or operated by the department of transportation, a county, a municipality or other political subdivision of this state; or

(ii) Owned or operated by a contractor under contract with the department of transportation, a county, a municipality or other political subdivision of this state;

(b) "Recovery vehicle" means a truck that is specifically designed for towing a disabled vehicle or a combination of vehicles.

(5) This section shall not operate to relieve the driver of an authorized emergency vehicle, a recovery vehicle or a highway maintenance vehicle from the duty to operate such vehicle with due regard for the safety of all persons using the highway. (1999 Code, § 15-112)

15-112. Drivers to exercise due care. Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1999 Code, § 15-113)

15-113. Limitations on backing. The driver of a vehicle shall not back such vehicle unless such movements can be made with reasonable safety and without interfering with other traffic. (1999 Code, § 15-114)

15-114. Riding on motorcycles. (1) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person, nor shall any other person ride on a motorcycle, unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

(2) A person shall ride upon a motorcycle only while sitting astride the seat, headlamp illuminated, facing forward, with one (1) leg on each side of the motorcycle.

(3) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.

(4) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator. (1999 Code, § 15-115)

15-115. Obstruction to driver's view of driving mechanism. (1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding four (4), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's or operator's control over the driving mechanism of the vehicle or streetcar. (1999 Code, § 15-116)

15-116. Following fire apparatus prohibited. The driver of any vehicle other than one (1) on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet (500') or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1999 Code, § 15-117)

15-117. Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command. (1999 Code, § 15-118)

15-118. Putting glass, nails and other substances on roadway prohibited. (1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. (1999 Code, § 15-119)

15-119. Traffic laws apply to persons riding bicycles. Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle. (1999 Code, § 15-120)

15-120. Riding on bicycles - playing and use of play vehicles.

(1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto, except for a certified police cyclist who is performing duties that require riding in a side dismounting position.

(2) No bicycle shall be used to carry more persons at one (1) time than the number for which it is designed or equipped.

(3) No person shall play on a highway other than upon the sidewalk thereof, within a city or town, or in any part of a highway outside the limits of a city or town, or use thereon roller skates, coasters or any similar vehicle or toy or article on wheels or a runner, except in such areas as may be specifically designated for that purpose by local authorities. (1999 Code, § 15-121)

15-121. Clinging to vehicles. (1) No person riding upon any bicycle, roller skates, sled or toy vehicle shall attach such bicycle, roller skates, sled or toy vehicle, or such person's own body, to any vehicle upon a roadway.

(2) The provisions of this section shall not be construed to prohibit the attachment of a bicycle trailer or bicycle semitrailer to a bicycle if such trailer or semitrailer is designed specifically for such purpose. (1999 Code, § 15-122)

15-122. Riding on roadways and bicycle paths. (1) (a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway, except under any of the following situations:

(i) When overtaking and passing another vehicle proceeding in the same direction;

(ii) When preparing for a left turn at an intersection or into a private road or driveway; or

(iii) When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the

right-hand curb or edge. For purposes of this section, "substandard width lane" means a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(b) Section 15-122(1) does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control.

(2) (a) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(b) Section 15-122(2) does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control or in pursuit of an actual or suspected violator of the law. (1999 Code, § 15-123)

15-123. Bicycle lamps and brakes. (1) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet (500') to the front and with a red reflector on the rear of a type approved by the department of safety which shall be visible from all distances from fifty feet (50') to three hundred feet (300') to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet (500') to the rear may be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within twenty-five feet (25') from a speed of ten miles per hour (ten (10) mph) on dry, level, clean pavement. (1999 Code, § 15-124)

15-124. Rights and duties of motorcycle operator. Every person operating a motorcycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter. (1999 Code, § 15-125)

15-125. Operation of motorcycles on laned roadways. (1) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection § 15-125(1) shall not apply to motorcycles operated two (2) abreast in a single lane.

(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Motorcycles shall not be operated more than two (2) abreast in a single lane.

(5) Sections 15-125(2) and 15-125(3) shall not apply to police officers in the performance of their official duties. (1999 Code, § 15-126)

15-126. Use of off-road motor vehicles on highways. Off-highway motor vehicles may be operated or driven upon a roadway but only as follows:

(1) On a two-lane roadway, only to cross such roadway at an angle of approximately ninety (90) degrees to the direction of the roadway and at a place where a quick and safe crossing may be made;

(2) With respect to the crossing of a roadway having more than two (2) lanes, or a roadway having limited access, such off-road motor vehicles may cross such roadways, but only at a place designated by the city with respect to roadways within their respective corporate limits as a place where such motor vehicles, or specified types of such motor vehicles, may cross the roadways, and such vehicles shall cross such roadways only at such designated places and only in a quick and safe manner; and

(3) The city with respect to roadways within their respective corporate limits may designate, by the erection of appropriate signs of a type approved by the department, places where such motor vehicles, or specified types of such motor vehicles, may cross any roadway having more than two (2) lanes or having limited access.

(4) Off-road motor-driven cycles may be moved, by non-mechanical means only, adjacent to a roadway, in such a manner so as to not interfere with traffic upon the roadway only for the purpose of gaining access to, or returning from, areas designed for the operation of off-road vehicles, when no other route is available. The city may designate access routes leading to off-road parks as suitable for the operation of off-road vehicles, if such access routes are available to the general public only for pedestrian and off-road motor vehicle travel. (1999 Code, § 15-127)

15-127. 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, processions, 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. (1999 Code, § 15-128)

15-128. Excessive noise from motor vehicles. (1) No person operating or occupying a motor vehicle on any public street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle. For the purpose of this section, "plainly audible" means any sound that clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty feet (50') or more; however, words or phrases need not be discernible and such sound shall include bass reverberation.

(2) This section shall not be applicable to emergency or public safety vehicles, vehicles owned and operated by a municipal or county government or any utility company, for sound emitted unavoidably during a job-related operation, school or community sponsored activities, auctioneers or auctioning activities, boats or other watercrafts operated on waters or any motor vehicle used in an authorized public activity for which a permit has been granted by the appropriate agency of a municipal or county government. (1999 Code, § 15-129)

15-129. Use of safety belts in passenger vehicles. (1) (a) No person shall operate a passenger motor vehicle on any roadway in the city 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 roadway 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) 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 clerk of the court of the city. (1999 Code, § 15-130)

15-130. Child passenger restraints. (1) 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 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.

(2) 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 roadway 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.

(3) Any person transporting any child, four (4) through eight (8) years of age and measuring less than five feet (5') 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. (1999 Code, § 15-131)

15-131. Testing or demonstrating driving skills. It is unlawful for any person to operate a motor vehicle within the boundaries of the city which includes all platted rights-of-way, for the purpose of testing or demonstrating driving skills or ascertaining certain vehicle endurance factors. The driving skills and vehicle endurance factors include, but are not limited to, testing the motor vehicles capabilities over natural, rough or muddy terrain or any other action which is normally termed "off-road riding."

(1) Exceptions. Property owners may operate any vehicle on their own property. Operating vehicles on private property, other than your own, is permitted only if you have, in your possession, written permission from the property owner. All emergency vehicles are exempt. Violators will be responsible for any damage to public or private property.

(2) All vehicles, operated within the boundaries of the city, which are deemed to be loud enough to disturb the peace, shall be unlawful.

(3) All platted rights-of way, including unpaved streets, are open to the public for riding or driving if this chapter and all traffic regulations are adhered to.

(4) "Motor vehicle" means every vehicle that is self-propelled, excluding motorized bicycles. (Ord. #213-8, Sept. 2013)

CHAPTER 2

PEDESTRIANS

SECTION

15-201. Walking on side of road.

15-202. Pedestrians soliciting rides or business.

15-203. Pedestrians led by guide dog or carrying identifying cane given right-of-way.

15-201. Walking on side of road. Any pedestrian walking on a roadway which does not have a sidewalk on either side shall walk on the side of the paved or graveled roadway facing oncoming traffic. (1999 Code, § 15-201)

15-202. Pedestrians soliciting rides or business. (1) No person shall stand in a roadway for the purpose of soliciting a ride or employment from the occupant of any vehicle.

(2) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (1999 Code, § 15-202)

15-203. Pedestrians led by guide dog or carrying identifying cane given right-of-way. Whenever any pedestrian guided by a guide dog or dog on a blaze orange leash, or carrying in any raised or extended position a cane or similar stick white in color or white tipped with red, shall undertake to cross any public street or thoroughfare in this state, the driver of each and every vehicle approaching such pedestrian carrying such cane or stick or conducted by such dog shall bring such vehicle to a complete stop and before proceeding shall take all precautions necessary to avoid injuring such pedestrian; provided, that nothing herein shall be construed as making any person totally or partially blind or otherwise incapacitated guilty of contributory negligence in undertaking to cross any street or thoroughfare without being guided by a trained dog or carrying a cane or stick of the type above mentioned. (1999 Code, § 15-203)

CHAPTER 3**SPEED LIMITS****SECTION**

15-301. General.

15-301. General. It shall be unlawful for any person to drive or operate a motor vehicle upon any roadway within the city's corporate limits at a rate of speed in excess of twenty-five (25) miles per hour except upon Harrison Ferry Road where the speed limit shall be thirty-five (35) miles per hour or where an official sign has been posted indicating another speed limit. (1999 Code, § 15-301)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Turning movements.

15-402. Signals by hand and arm or signal device.

15-403. Signals for turns.

15-404. Required position and method of turning at intersections.

15-405. Vehicle turning left at intersection.

15-401. Turning movements. (1) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course of move right or left upon a roadway, unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner provided in §§ 15-401 and 15-402 in the event any other traffic may be affected by such movement.

(2) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. (1999 Code, § 15-401)

15-402. Signals by hand and arm or signal device. Any turn signal shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device. (1999 Code, § 15-402)

15-403. Signals for turns. (1) Every driver who intends to start, stop or turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in this section, plainly visible to the driver of such other vehicle of the intention to make such movement.

(2) The signal herein required shall be given by means of the hand and arm, or by some mechanical or electrical device approved by the department of safety, in the manner herein specified. Whenever the signal is given by means of the hand and arm, the driver shall indicate the intention to start, stop, or turn, or partly turn, by extending the hand and arm from and beyond the left side of the vehicle, in the following manner:

(a) For left turn, or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder;

(b) For right turn, or pull to the right, the arm shall be extended upward; and

(c) For slowing down or to stop, the arm shall be extended downward.

(3) Such signals shall be given continuously for a distance of at least fifty feet (50') before stopping, turning, partly turning, or materially altering the course of the vehicle.

(4) Drivers having once given a hand, electrical or mechanical device signal, must continue the course thus indicated, unless they alter the original signal and take care that drivers of vehicles and pedestrians have seen and are aware of the change.

(5) Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a his understanding of such signal.

(6) Drivers of vehicles, standing or stopped at the curb or edge before moving such vehicles, shall give signals of their intention to move into traffic, as hereinbefore provided, before turning in the direction the vehicle shall proceed from the curb. (1999 Code, § 15-403)

15-404. Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) 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;

(2) 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 centerline thereof and by passing to the right of such centerline where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection;

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

(4) Local instructions. The city may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed,

no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs; and

(5) Two-way left turn lanes. Where a special lane for making left turns by drivers proceeding in opposite directions has been established:

(a) A left turn shall not be made from any other lane unless a vehicle cannot safely enter the turn lane;

(b) A vehicle shall not be driven in the left turn lane except when preparing for or making a left turn from or into the roadway;

(c) A vehicle shall not use the left turn lane solely for the purpose of passing another vehicle;

(d) A vehicle shall not enter a left turn lane more than a safe distance from the point of the intended turn;

(e) When any vehicle enters the turn lane, no other vehicle proceeding in an opposite direction shall enter that turn lane if such entrance would prohibit the vehicle already in the lane from making the intended turn; and

(f) When vehicles enter the turn lane proceeding in opposite directions, the first vehicle to enter the lane shall have the right-of-way. (1999 Code, § 15-404)

15-405. Vehicle turning left at intersection. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but the driver, having so yielded and having given a signal when and as required by this chapter, may make such left turn, and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn. (1999 Code, § 15-405)

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. Vehicles must stop at stop signs.

15-502. Vehicles approaching or entering intersection.

15-503. Vehicles entering through roadway or stop intersections.

15-504. Vehicles entering public roadway from private road or driveway.

15-505. Emerging from alley, driveway or building.

15-501. Vehicles must stop at stop signs. Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver or operator has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal. (1999 Code, § 15-501)

15-502. Vehicles approaching or entering intersection. (1) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(2) When two (2) vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. (1999 Code, § 15-502)

15-503. Vehicles entering through roadway or stop intersections.

(1) The driver of a vehicle shall stop at the entrance to a through roadway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through roadway as to constitute an immediate hazard, but the driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection on the through roadway shall yield the right-of-way to the vehicle so proceeding into or across the through roadway.

(2) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one (1) or more entrances thereto although not a part of a through highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(3) (a) The driver of a vehicle who is faced with a yield sign at the entrance to a through roadway is not necessarily required to stop, but is required to exercise caution in entering the roadway and to yield the right-of-way to other vehicles which have entered the intersection from

the roadway, or which are approaching so closely on the roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(b) Where there is provided more than one (1) lane for vehicular traffic entering a through roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this § 15-503(3) shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls. (1999 Code, § 15-503)

15-504. Vehicles entering public roadway from private road or driveway. The driver of a vehicle about to enter or cross a roadway from a private road or driveway shall yield the right-of-way to all vehicles approaching on the roadway. (1999 Code, § 15-504)

15-505. Emerging from alley, driveway or building. The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (1999 Code, § 15-505)

CHAPTER 6

PARKING

SECTION

- 15-601. Illegal parking zones.
- 15-602. Stopping, standing or parking outside of business or residential districts.
- 15-603. Officers authorized to remove illegally stopped vehicles.
- 15-604. Campers, motor homes, travel railers, RVs, boats and trailers, and fifth wheels.
- 15-605. Vehicle parking.
- 15-606. Cul-de-sac parking.

15-601. Illegal parking zones. It shall be unlawful for any vehicle to be parked within the city in any restricted zone or space to include, but not limited to:

- (1) An unauthorized parking space designated for the handicapped;
- (2) No parking zones; or
- (3) Fire lanes. (1999 Code, § 15-601)

15-602. Stopping, standing or parking outside of business or residential districts. (1) Upon any highway outside of a business or residential district, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of the highway, but in every event an unobstructed width of the highway opposite a standing vehicle of not less than eighteen feet (18') shall be left for the free passage of other vehicles, and a clear view of such stopped vehicles shall be available from a distance of two hundred feet (200') in each direction upon such highway.

(2) (a) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

(b) The provisions of this section shall not apply to the driver of any vehicle operating as a carrier of passengers for hire and holding a certificate of convenience and necessity, or interstate permit issued by the department of safety or any local regulatory transit authority of Tennessee authorizing the operation of such vehicle upon the roads, streets or highways in Tennessee, while taking passengers on such vehicle, or discharging passengers therefrom; provided, that in every event an unobstructed lane of travel of the highway opposite such standing vehicle shall be left for free passage of other vehicles and a clear

view of such stopped vehicles shall be available from a distance of two hundred feet (200') in either direction upon the highway.

(c) The provisions of this section do not apply to a solid waste vehicle while on the paved or improved main traveled portion of a road, street or highway in such manner and to such extent as is necessary for the sole purpose of collecting municipal solid waste, provided, that such vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; and provided further, that the vehicle is stopped so that a clear view of such stopped vehicle is available from a distance of two hundred feet (200') in either direction upon the highway. In addition to flashing hazard lights, such vehicles shall be required to maintain special lights visible from both the front and the rear indicating that the truck is stopped. The department of safety is authorized to promulgate rules and regulations regarding special lighting required by § 15-602(2)(c). The provisions of § 15-602(2)(c) do not preclude any claimant from pursuing such claimant's common law claim for recovery pursuant to common law negligence. (1999 Code, § 15-602)

15-603. Officers authorized to remove illegally stopped vehicles.

(1) Whenever any police officer finds a vehicle standing upon a roadway in violation of any of the provisions of this chapter, such officer is hereby authorized to move such vehicle, or to require the driver or other person in charge of the vehicle to move it, to a position off the paved or main-traveled part of such roadway.

(2) Whenever any police officer finds a vehicle unattended upon any bridge or roadway, where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety, at the expense of the owner. (1999 Code, § 15-603)

15-604. Campers, motor homes, travel trailers, RVs, boats and trailers, and fifth wheels. Parking is permitted on residential property provided the above-listed are parked behind the front line of the house. (Ord. #219-9, Jan. 2020, modified)

15-605. Vehicle parking. Every vehicle parked on residential property shall be operational, have tags and be street legal. (Ord. #219-9, Jan. 2020)

15-606. Cul-de-sac parking. No vehicles, boats, recreational or other personal items shall be parked in any cul-de-sac or right-of way at any time. A temporary exception may be granted for vehicle parking for special events by contacting the city manager's office. (Ord. #219-9, Jan. 2020)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Disposal of abandoned motor vehicles.
- 15-704. Violations and penalty.

15-701. Issuance of traffic citations. When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1999 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1999 Code, § 15-702)

15-703. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the chief of police in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109. (1999 Code, § 15-703)

15-704. Violations and penalty. Any violation of this title shall be a civil offense punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense, plus court costs of sixty-nine dollars (\$69.00), with the exception of illegally parking in a handicapped parking area which fine is one hundred dollars (\$100.00) in accordance with *Tennessee Code Annotated*, § 55-21-108. (1999 Code, § 15-704)

CHAPTER 8

OVERWEIGHT VEHICLES

SECTION

- 15-801. Definitions.
- 15-802. Load limits and hauling multiple loads.
- 15-803. Oversize/overweight/multiple hauling permit.
- 15-804. Truck routes.
- 15-805. Exceptions.
- 15-806. Weighing.
- 15-807. Violations and penalty.

15-801. Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the following meanings given herein:

- (1) "City" shall mean the City of Baneberry, Tennessee.
- (2) "Gross weight " shall mean weight of a vehicle, fully equipped and serviced for operation, including the weight of the fuel, lubricants, coolant, vehicle tools and spares, crew, personal equipment, and load.
- (3) "Multiple loads" shall mean hauling multiple loads of logs, dirt, stone etc. "Multiple loads" shall mean more than one (1) load.
- (4) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (5) "Truck" shall mean any vehicle designed or operated for the transportation of property, and whose payload rating is over one (1) ton. (Ord. #213-9, Nov. 2013)

15-802. Load limits and hauling multiple loads. It shall be unlawful for any person to operate any truck on any public street or right-of-way in the city, which has a gross weight in excess of twelve (12) tons or to engage in hauling multiple loads, unless permitted by the city to do so. When a permit is required, an indemnity bond will be required to be posted with the city to cover possible damage to its streets, bridges, culverts or drainage easements, which may be damaged by the moving of said excessive weight loads or to engage in hauling multiple loads over and along these streets.

The indemnity bond of no less than fifty thousand dollars (\$50,000.00) shall remain in force and effect for a minimum of ninety (90) days from the initial execution date of the permit. The amount of the bond shall be determined by guidelines established by the city manager otherwise ordered by the reasonable consideration of the type of vehicle, the amount of excess weight, the distance to be traveled on the streets and the condition of the streets to be traveled. (Ord. #213-9, Nov. 2013)

15-803. Oversize/overweight/multiple hauling permit. A permit may be issued under the direction of the city manager for the following:

(1) Travel of trucks over city streets within the city with loads in excess of the load limits provided in § 15-802, but only when it is impossible or impractical to reduce the weight of the load or use a truck capable of hauling the load within the prescribed limit.

(2) For hauling multiple loads as described in § 15-802. Such permit shall be issued for a maximum period of ninety (90) days. The city manager or his designee, shall determine route of travel of said trucks and the amount of the bond, if any, but the amount shall not be less than fifty thousand dollars (\$50,000.00). The permit shall specify the dates of issuance and expiration, the license plate numbers of the trucks and the route of travel. A permit fee of thirty dollars (\$30.00) for the issuance of the permit shall be paid to the city by the applicant prior to issuance. (Ord. #213-9, Nov. 2013)

15-804. Truck routes. All trucks shall confine their travel within the city to the "truck route" designated by the city manager with the issuance of each permit. (Ord. #213-9, Nov. 2013)

15-805. Exceptions. This chapter shall not prohibit:

(1) The operation of emergency vehicles upon any street in the city.

(2) The operation of trucks owned or operated by the city, or contracted by the city, upon any street in the city.

(3) The operation of trucks delivering materials or supplies to a construction project.

(4) The operation of trucks for the purpose of moving household goods. (Ord. #213-9, Nov. 2013)

15-806. Weighing. Any police officer or codes enforcement officer, of the city, shall have the authority to require any person driving or in control of a truck to proceed to any public or private scale available for the purpose of weighing and determining whether this chapter has been complied with. Upon such weighing, if it is determined that the truck so weighed is in excess of the load limit, then the cost of such weighing shall be immediately due and payable by the operator of such truck and such truck may be lawfully detained by the enforcing officer until such charge has been paid. Any charge for weighing under the terms of this section shall be in addition to any fine imposed for a violation of its provisions. (Ord. #213-9, Nov. 2013)

15-807. Violations and penalty. A person violating any provision of this chapter shall be found guilty of a misdemeanor and shall be punished by a fine not to exceed the maximum amount allowed by the law that is current at the time of the violation. (Ord. #213-9, Nov. 2013)

TITLE 16

STREETS AND SIDEWALKS, ETC.

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Signs for separately developed or subdivided area of real property prohibited.
- 16-102. House numbers.

16-101. Signs for separately developed or subdivided area of real property prohibited. It shall be unlawful for any person, organization, or business to place or have placed a permanent sign, monument, or other display within the City of Baneberry which purports to designate, describe or name a separately developed or subdivided area of real property within said city. (1999 Code, § 16-201)

16-102. House numbers. All houses shall have house numbers displayed where they can be visibly seen from the road. If a house is set back from the main entrance, house numbers shall be posted at the entrance. (Ord. #219-9, Jan. 2020)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

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

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, public space, or public right-of-way, or to tunnel under any street, alley, public place or public right-of-way, without having first obtained a permit as herein required, without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the 16-2recorder is working, and said permit shall be retroactive to the date when the work was begun. (1999 Code, § 16-101)

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

¹State law reference

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

laws relating to the work to be done. Such application shall be rejected or approved by the 16-2recorder within twenty-four (24) hours of its filing. (1999 Code, § 16-102)

16-203. Fees. The fee for such permits shall be ten dollars (\$10.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and one dollar (\$1.00) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1999 Code, § 16-103)

16-204. Deposit or bond. Any work done by a company, construction crew, or utility shall have a bond in place prior to any construction being undertaken in the street, adjacent to the street, or under the street. The bond shall be set by the city manager. (1999 Code, § 16-104)

16-205. Manner of excavating- barricades and lights - temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Any utility or other construction which requires a cut across a public street or a paved driveway shall be required to bore under the street unless the contractors can prove that said boring would be an impossibility or would cause a safety or health hazard. (On unpaved streets the planning commission may give a waiver to cut the street and repair it to the original condition.) Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1999 Code, § 16-105)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place or public right-of-way in the City of Baneberry shall restore said street, alley, or public place right-of-way to its original condition which shall be done by the contractor performing said excavation. In case of unreasonable delay in restoring the street, alley, or public place, the city manager shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person,

firm, corporation, association, or others who made the excavation or tunnel. (1999 Code, § 16-106)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000) for each accident, and for property damages not less than twenty-five dollars (\$25,000.00) for any one (1) accident, and a seventy-five thousand dollar (\$75,000.00) aggregate. (1999 Code, § 16-107)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the 16-2city council. (1999 Code, § 16-108)

16-209. Supervision. The city manager shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to the city manager at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1999 Code, § 16-109)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining approval from the planning commission and a permit from the city manager. 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 or impede the health, safety and welfare of the street or right-of-way. All driveways shall require a tile/culvert installed at the connection between the street and highway unless the tile/culvert requirement is waived by the planning board, said tile/culvert to be at least fifteen inches (15") in diameter. When two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided.

Driveway aprons shall not extend out into the street. There shall be no fee obtaining a driveway cut or excavation permit. (1999 Code, § 16-110)

TITLE 17

REFUSE AND TRASH DISPOSAL

[RESERVED FOR FUTURE USE]

TITLE 18

WATER AND SEWERS¹

[RESERVED FOR FUTURE USE]

¹The Baneberry Utility Policy (Ord. #204-7, dated Sept. 2, 2004) is of record in the recorder's office.

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER

1. PUBLIC RECORDS.
2. COMPREHENSIVE PLAN.
3. LIABILITY INSURANCE.
4. IDENTITY THEFT POLICY.
5. WILDLIFE HABITAT.

CHAPTER 1

PUBLIC RECORDS

SECTION

- 20-101. Records management.
- 20-102. Records disposal.
- 20-103. Public access.
- 20-104. Fees and charges.
- 20-105. Applicability.
- 20-106. Definitions.
- 20-107. Confidential records.

20-101. Records management. (1) Records management responsibility rests with the city recorder under the supervision of the city manager as provided by the city charter, *Tennessee Code Annotated*, § 6-21-404 - Records; custody and preservation.

(2) The following positions are charged with establishing and maintaining up-to-date, efficient, and effective records systems: city manager, city recorder, city court clerk, police chief, fire chief, parks and recreation director, planning commissioner, roads commissioner, and others as may be authorized by the board of commissioners or the city manager.

(3) All city records shall be classified and handled as either: working papers, temporary records, or permanent records as detailed in § 20-106.

(4) To the maximum extent possible, records shall be grouped, maintained and stored by fiscal year, excluding those records that are bound in a continuous chronological or sequential order such as ordinances, resolutions, minutes, financials, or records that require alternative or unique filing methods to fulfill their daily or routine use requirements.

(5) All city records deemed "confidential" shall be stored in envelopes or file folders so marked; and kept in a locked, file storage except when in use.

(a) Any record that is classified or designated as confidential must be treated as confidential throughout the maintenance, storage and disposition of the record.

(b) Confidential records shall not be left unattended and unsecured.

(c) Confidential records, if eligible for destruction, shall be destroyed in such a manner that the record cannot be read, interpreted or reconstructed.

(d) Information that would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential, (e.g., contingency and security plans, security codes, passwords, combinations, records directly relate to the security of government buildings, etc.)

(e) *Tennessee Code Annotated*, § 47-18-2901 requires municipalities to create safeguards to ensure the security of personal information on laptop computers. Failure to comply with this requirement creates a cause of action against the municipality if identity theft results.

(f) *Tennessee Code Annotated*, § 47-18-2107 requires any holder of computerized personal information that is confidential to disclose any breach of the security of the system to any resident of Tennessee whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

If the information holder does not own the personal data, the holder must also notify the owner or licensee of the breach immediately following the discovery. Disclosures must be made without unreasonable delay.

(g) Section 20-107 provides a partial listing of records deemed by the state to be "confidential." If in doubt, records managers shall seek classification assistance from the applicable state office, the Municipal Technical Advisory Service (MTAS), or the city attorney.

(6) All records shall be tagged or marked, prior to filing, storage, or disposal with an applicable retention date or status as defined in the most current edition of *Tennessee's Record Retention Schedules*, published and provided by the Municipal Technical Advisory Service (MTAS) in accordance with *Tennessee Code Annotated*, § 10-7-701.

(7) All records that have become inactive shall be boxed, labeled, and moved to the inactive records storage area in city hall.

(a) Determination of how long office records remain in "active" use is based upon usage history; available active storage resources; and the operating procedures of the office, department, commission, etc.

(b) Prior to moving records to inactive storage, the authorized records manager shall remove and properly dispose of records that do not

require long term or permanent retention in accordance with the Tennessee retention schedules.

(8) All ratified (i.e., officially accepted, signed and dated) meeting minutes of all city departments, commissions and special/ad hoc work groups shall be bound chronologically and retained in separate "collections" and retained in Baneberry's city hall. These are "permanent records" and should be the original signed document.

(9) All ratified (i.e., officially read, accepted, signed and dated) city ordinances and resolutions of the Baneberry Board of Commissioners shall be bound chronologically and retained in Baneberry's city hall offices. These are "permanent records." Ordinances and resolutions shall be bound in separate "collections."

(10) All permanent city records, not currently available in a readable digital format, should be scanned, digitally archived and stored in a board of commissioner's authorized facility that provides safety and environmental security for such storage, (e.g., off-site fireproof safe; off-site fireproof filing cabinet; safety deposit box, etc.)

(11) The city recorder and/or city manager shall ensure that all Baneberry employees, authorized volunteers, and city officials responsible for city records are indoctrinated on this policy and trained to properly create, use, manage, file, and dispose of city records. (Ord. #215-1, June 2015)

20-102. Records disposal. Records disposition authorization:

(1) The city recorder and/or city manager are charged with authorizing and approving the disposition and destruction of records that no longer have administrative, fiscal, legal, or historical value in accordance with state retention schedules.

(a) The following city offices/officials are authorized the disposition and/or destruction of records: city manager, city recorder, city court clerk, police chief, fire chief, parks and recreation director, planning commissioner, roads commissioner, and others as may be authorized by the board of commissioners or the city manager.

(b) Prior to dispositioning of records, whether destructive or archival, all records managers shall obtain authorization for the proposed dispositioning from the city manager.

(2) The positions described above are authorized to dispose of any permanent paper record when the record has been photocopied, photostatted, filmed, microfilmed, preserved by micro-photographic process, or reproduced onto an approved computer or removable computer media, in accordance with *Tennessee Code Annotated*, § 10-7-121.

(3) The disposition of records shall be in accordance with the most current record retention schedule provided by the University of Tennessee's Municipal Technical Advisory Service (MTAS), pursuant to the authority granted in *Tennessee Code Annotated*, § 10-7-702. However, records may be

retained for longer periods when it would be advisable or otherwise helpful to do so. (Ord. #215-1, June 2015)

20-103. Public access. Procedures regarding access and inspection of public records:

(1) Consistent with the Public Records Act of the State of Tennessee, *Tennessee Code Annotated*, § 39-16-602, authorized personnel of the City of Baneberry shall provide full access and assistance in a timely and efficient manner to citizens of the State of Tennessee who request access to open public records.

(2) Employees of the City of Baneberry shall protect the integrity and organization of public records with respect to the manner in which such records are inspected and copied. All inspections or copying of records shall be performed by, or under the supervision of, employees, authorized staff volunteers, or officials of the City of Baneberry.

(3) All copying of public records shall only be accomplished by employees, authorized staff volunteers, or officials of the City of Baneberry.

(4) Employees, authorized staff volunteers, and officials with the City of Baneberry shall prevent excessive disruption of their essential functions and duties while seeking to provide responsive access to records at the earliest possible time.

(5) Requests for inspection or copying of records shall be made in writing on Form 2015-1; Request for Public Records provided by the City of Baneberry. Form 2015-1 shall be completed by the person requesting the record.

(6) Baneberry city employees, authorized staff volunteers, or officials of the City of Baneberry may request reasonable identification of any person requesting a record.

(7) Hours for making requests for inspection or copying of records shall be the regular office hours of city hall.

(8) Removal of records from city hall shall not be permitted.

(9) Reproduction of records shall not be undertaken when, in the judgment of personnel of the City of Baneberry, such reproduction would cause damage to the record.

(10) City employees, authorized staff volunteers, and city officials shall not engage in research projects for requestors. (Ord. #215-1, June 2015, modified)

20-104. Fees and charges. Costs for inspection and copying of public records:

(1) The city may establish reasonable fees to cover the direct cost of the reproduction of records. Such fees shall include the actual cost of reproduction, plus labor costs when applicable.

(a) Fifteen cents (15¢) per page shall be charged for each standard eight and one-half by eleven inch (8-1/2" x 11") or eight and

one-half by fourteen inch (8-1/2" x 14") black and white copy, produced. An amount equivalent to the charge for two (2) separate copies (thirty cents (30¢) per page) will be charged for duplex copies if city equipment supports this function.

(b) If a public record is maintained in color, color copies may be produced if the custodian's department has color copying capabilities. If color copies can be produced, the records custodian shall advise the requestor that the record can be produced in color if the requestor is willing to pay a charge higher than the fifteen cents (15¢) per page charge for black and white copies. If the requestor requests a color copy, a charge of fifty cents (50¢) per page will be assessed for each eight and one-half by eleven inch (8-1/2" x 11") or eight and one-half by fourteen inch (8-1/2" x 14") color copy produced.

(c) If actual costs are higher than those listed above, or if the requested records are produced in a medium other than eight and one-half by eleven inch (8-1/2" x 11") or eight and one-half by fourteen inch (8-1/2" x 14") paper, the records custodian may assess higher charges based on actual cost. If higher charges based on actual cost are charged, they will be based on a schedule of charges documenting the city's actual cost and enumerating the calculation and reasoning for the charges.

(d) New fee schedules based on actual costs may be published by city resolution, a copy of which shall be maintained with the ratified copy of this section.

(2) The city may establish reasonable fees to cover labor costs for copies in addition to the direct cost for copies. Labor costs shall be assessed as follows:

(a) There will be no charge for the first hour of labor incurred in producing material for copying.

(b) After the first hour, the requestor shall be charged the hourly wage of the employee's time reasonably needed to produce the requested records. The hourly wage shall be based upon the base salary of the employee and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be worked per year.

(c) The records custodian shall utilize the most cost efficient method of producing the requested records.

(d) There will be no labor charge, if the city representative making the copies is an authorized volunteer or an unpaid city official.

(3) All fees for purposes identified in § 20-104(1) shall be due at the time such costs are incurred.

(4) No fees shall be assessed against employees, authorized staff volunteers, or city officials who make requests which are reasonably necessary to the performance of their official duties.

(5) No reproduction fee shall be assessed when an employee, authorized staff volunteer, or city official determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge.

(6) If the requested records exist electronically, but not in the format requested or a new or modified computer program or application is necessary to convert or put the records in a readable and reproducible format or it is necessary to access backup files, the records custodian shall charge the requesting party the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing backup files.

(7) Electronic records will only be produced in a "read only" format. (Ord. #215-1, June 2015)

20-105. Applicability. (1) Applicability. This chapter cannot and does not cover all of the details regarding safe, efficient and effective records management. Applicable state and federal regulations must be applied by all involved in the preparation, filing and management of city records.

(2) Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

(3) Conflicts. All other Baneberry city ordinances or resolutions or parts of either found to be in conflict herewith are hereby repealed. Be it further ordained that this chapter shall take effect fifteen (15) days from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the City of Baneberry requiring it. (Ord. #215-1, June 2015)

20-106. Definitions. As provided in *Tennessee Code Annotated*, § 10-7-301 - Part Definitions.

(1) "Agency" means any department, division, board, bureau, commission, or other separate unit of government created by law or pursuant to law, including the legislative branch and the judicial branch; provided, however, that for purposes of this part only, "agency" does not include the legislative branch.

(2) "Confidential public record" means any public record which has been designated confidential by statute and includes information or matters or records considered to be privileged and any aspect of which access by the general public has been generally denied.

(3) "Disposition" means preservation of the original records in whole or in part, preservation by photographic or other reproduction processes, or outright destruction of the records.

(4) "Essential records" means any public records essential to the resumption or continuation of operations, to the re-creation of the legal and financial status of government in the state or to the protection and fulfillment of obligations to citizens of the state.

(5) "Permanent records" means those records which have permanent administrative, fiscal, historical or legal value.

(6) "Public record" or "records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

(7) "Records creation" means the recording of information on paper, printed forms, punched cards, tape, disk, or any information transmitting media. "Records creation" includes preparation of forms, reports, state publications, and correspondence.

(8) "Records disposition authorization" means the official document utilized by an agency head to request authority for the disposition of records. The public records commission shall determine and order the proper disposition of state records through the approval of records disposition authorizations.

(9) "Records management" means the application of management techniques to the creation, utilization, maintenance, retention, preservation, and disposal of records in order to reduce costs and improve efficiency of recordkeeping. "Records management" includes records retention schedule development, essential records protection, files management and information retrieval systems, microfilm information systems, correspondence and word processing management, records center, forms management, analysis, and design, and reports and publications management.

(10) "Records of archival value" means any public record which may promote or contribute toward the preservation and understanding of historical, cultural, or natural resources of the State of Tennessee.

(11) "Records officer" means an individual designated by an agency head to assume responsibility for implementation of the agency's records management program.

(12) "Section and division" means the division of records management of the department of state.

(13) "Temporary records" means material which can be disposed of in a short period of time as being without value in documenting the functions of an agency. Temporary records will be scheduled for disposal by requesting approval from the public records commission utilizing a records disposition authorization.

(14) "Working papers" means those records created to serve as input for final reporting documents, including electronic data processed records, and/or computer output microfilm, and those records which become obsolete immediately after agency use or publication. (Ord. #215-1, June 2015)

20-107. Confidential records. The following list is not exhaustive and it may not be up-to-date. Users must refer to current and relevant Tennessee and federal code, law, regulation and policy to determine if a record or a portion of a record is confidential. This list is summarized to topics. Refer to current legislation for details.

The following list reflects the records designated as confidential by *Tennessee Code Annotated*, § 10-7-504 at the time of publication (current through the 2014 regular session and amendments approved at the November 4, 2014 general election). *Tennessee Code Annotated*, § 10-7-504 is not exclusive, however, and many other statutes, rules, and the common law dealing with a subject also can make a specific record confidential.

In most cases, the law defines who may and may not see "confidential" records for each of the following:

(1) Adoption. All related records.

(2) Audit/tax records. Business tax statements, reports, audits, and returns. *Tennessee Code Annotated*, § 67-4-722.

Audit working papers of the comptroller of the treasury and state, county and local government internal audit staffs conducting audits as authorized by § 4-3-304.

(3) Computer. Programs, software, software manuals, and other types of information manufactured or marketed by persons or entities under legal right and sold, licensed, or donated to Tennessee state boards, agencies, political subdivisions, or higher education institutions.

(4) Contracting. Proposals received pursuant to personal service, professional service, and consultant service contract regulations, and related records, including evaluations and memoranda are confidential until their purpose has been fulfilled.

Sealed bids for the purchase of goods and services, and leases of real property, and individual purchase records, including evaluations and memoranda relating to the same are confidential until their purpose has been fulfilled.

(5) Employment records. Employment records of state, county, municipal, or other public employees that contain home telephone and personal cell numbers; personal, nongovernment issued, email address; emergency contact information; residential information including the street address, city, state and zip code; bank account information; Social Security numbers; individual health savings account, retirement account, and pension account information; or driver's license information (except where driving or operating a vehicle is part of the employee's job duties). This confidentiality extends to immediate family members, whether or not the immediate family member resides with the employee, or household members.

Note: Under the law, this information in employment records should be redacted whenever possible and not used to limit or deny access to otherwise public information.

(6) Handgun carry permit. Files of the handgun carry permit and the driver license issuance divisions of the department of safety relating to bogus handgun carry permits and bogus driver licenses issued to undercover law enforcement agents.

(7) Historical research. Records of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Tennessee Board of Regents or the University of Tennessee, when the owner or donor of such records requires that the records are kept confidential.

Those parts of a record identifying an individual as a person who has been or may in the future be directly involved in the process of executing a sentence of death.

Credit card numbers, Social Security numbers, account numbers, security codes and other identifying information in the hands of a utility.

Tax returns, audits, letter rulings, and other taxpayer identifying information. *Tennessee Code Annotated*, § 67-1-1702.

(8) Investigative record. Criminal investigative files of the Department of Agriculture and the Department of Environment and Conservation.

Investigative record criminal investigative files of the motor vehicle enforcement division of the department of safety relating to stolen vehicles or parts.

Criminal investigative files and records of the Tennessee Alcoholic Beverage Commission.

Investigative records of the Tennessee Bureau of Investigation and the office of inspector general.

Investigative records and reports of the internal affairs division of the department of correction or of the department of children's services.

(9) Juveniles. Many records regarding juveniles. *Tennessee Code Annotated*, §§ 37-1-153, 37-1-154, 37-1-155, 37-1-409, 37-1-612, 37-1-615, 37-2-408.

Law enforcement photographs and recordings of juveniles. *Tennessee Code Annotated*, § 37-1-155.

(10) Medical record. Medical records of patients in state, county and municipal hospitals and medical facilities.

Medical records containing the source of body parts for transplantation or any information concerning persons donating body parts.

Official health certificates, collected and maintained by the state veterinarian.

Memoranda, work notes or products, case files and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, county and municipal correctional officers, dispatchers, emergency medical technicians, emergency medical technician-paramedics, and firefighters; both volunteer and professional.

Mental health intervention techniques for municipal correction officers and dispatchers. *Tennessee Code Annotated*, § 10-7-504(a)(13)(A).

(11) Medical records. Records of any employee's identity, diagnosis, treatment, or referral for treatment that are maintained by any state or local government employee assistance program.

Certain records of an employer's drug testing program. *Tennessee Code Annotated*, § 50-9-109. (See Op. Tenn. Atty. Gen. 99-126).

Information or records held by a local health department regarding sexually transmitted diseases. *Tennessee Code Annotated*, § 68-10-113.

Patient medical records of hospitals and local and regional health departments. *Tennessee Code Annotated*, § 68-11-305.

Nursing home patient records. *Tennessee Code Annotated*, § 68-11-804.

Records granting consent to abortion for a minor and other records regarding abortion.

(12) Opinions. State agency records containing opinions of value of real and personal property intended to be acquired for a public purpose.

(13) Pending actions. Certain books, records and other materials in the possession of the Office of the Attorney General relating to any pending or contemplated legal or administrative proceeding.

(14) Personal information. Personal information contained in motor vehicle records.

Unpublished telephone numbers in the possession of emergency communications districts.

The telephone number, address and any other information which could be used to locate the whereabouts of a domestic violence shelter, family safety center or rape crisis center.

Identifying information, such as unlisted telephone numbers, in the possession of a private or public utility service provider that could be used to locate an individual, when the utility has been provided with a copy of a valid protection document and confidentiality has been requested.

Records in paternity proceedings that might be used to locate a victim or alleged victim of domestic violence.

Credit card numbers of persons doing business with the state or political subdivision thereof and any related personal identification numbers (PIN) or authorization codes.

(15) Planning/risk. Capital plans, marketing information, proprietary information and trade secrets submitted to the Tennessee Venture Capital Network.

Riot, escape and emergency transport plans which are incorporated in a policy and procedures manual of county jails and workhouses or prisons operated by the Department of Correction.

Records of a utility that would identify areas of vulnerability or allow disruption of utility service.

Records that identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider.

Contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

(16) Police/fire. Certain personal information of undercover police officers and their immediate family or household members.

Certain personal information relative to law enforcement officers, in addition to that made confidential otherwise, when the information is requested for professional, business or official purpose, and the chief determines there is a reason not to disclose the information.

(17) Proprietary information. Proprietary information provided to the Alcoholic Beverage Commission.

(18) Security. Records, documents and papers in the possession of the military department which involve national or state security.

(19) Students. Records of students in public educational institutions. Certain student information.

(20) Teachers. Records containing the results of individual teacher evaluations administered pursuant to the policies, guidelines, and criteria adopted by the State Board of Education under § 49-1-302.

(21) Utility. The private records of any utility shall be treated as confidential and shall not be open for inspection by members of the public.

(22) Whistleblower. Whistleblowing reports of violations of the Education Trust in Reporting Act. *Tennessee Code Annotated*, § 49-50-1408.

(23) Work product. Memoranda, notes, case files, or work products of victim-offender mediation centers.

Work product of the municipal attorney. (Ord. #215-1, June 2015)

CHAPTER 2

COMPREHENSIVE PLAN

SECTION

20-201. Comprehensive plan.

20-201. Comprehensive plan. The City of Baneberry adopts Envision Baneberry 2025 - A Comprehensive Plan¹ as provided by *Tennessee State Code* in *Tennessee Code Annotated*, § 13-4-201 - General Plan for Physical Development and related code.

This third edition, Envision Baneberry 2025 - A Comprehensive Plan, herein adopted, represents another review and revision of previous plan goals reflecting the needs of a changing and growing community.

The revised plan consists of a text document and a Microsoft® Workbook where the text document describes the plan, outlines Baneberry's plan history, and specifies the city's vision, mission, values, and its planned goals and objectives and the Microsoft® Workbook, "Master Progress Record" to be maintained on the city manager's computers, organizes the plan; specifies strategies for accomplishing the city's goals; assigns responsibilities and timelines; identifies resource requirements; and tracks plan progress.

The adopted plan encompasses, but is not limited to residential and commercial land use and development; open space management; environmental protection; recreation; public and semi-public facilities; utilities; transportation and roads; public safety; police and fire protection; communications; emergency planning; promotion and growth of the city; community character and lifestyle; waste management and recycling; public sanitation; and public services. (Ord. #215-15, July 2015)

¹A copy of Envision Baneberry 2025 - A Comprehensive Plan may be found in the recorder's office.

CHAPTER 3

LIABILITY INSURANCE

SECTION

20-301. Liability insurance.

20-301. Liability insurance. The City of Baneberry shall participate in the agreement between the cities of Athens and Hendersonville and such other municipalities as participate therein, said agreement being to cooperate in creating, establishing, and contracting with the TML Public Entity Partners, a not-for-profit Tennessee corporation organized to provide a method for political subdivisions of the State of Tennessee to obtain risk management, insurance, self-insurance, or any combinations thereof, for any and all areas of liability or insurability. The form, content and provisions of the contract are hereby approved.

The city manager is empowered and directed on behalf of the City of Baneberry to enter into said contract with the TML Public Entity Partners for certain services of risk management and insurance in accordance with chapter 282 of the Tennessee Public Acts of 1979, and to take such steps as may be necessary to implement and carry out the intent of this chapter. (Ord. #215-8, June 2015, modified)

CHAPTER 4

IDENTITY THEFT POLICY

SECTION

20-401. Background.

20-402. Purpose.

20-403. Scope.

20-404. Sensitive information policy.

20-405. Additional identity theft prevention program.

20-406. Responding to red flags.

20-407. Periodic updates to plan.

20-408. Program administration.

20-401. Background. The risk to the municipality, its employees and customers from data loss and identity theft is of significant concern to the municipality and can be reduced only through the combined efforts of every employee and contractor. (Ord #215-10, June 2015)

20-402. Purpose. The municipality adopts this sensitive information policy to help protect employees, customers, contractors and the municipality from damages related to the loss or misuse of sensitive information.

(1) This policy will:

(a) Define sensitive information;

(b) Describe the physical security of data when it is printed on paper;

(c) Describe the electronic security of data when stored and distributed; and

(d) Place the municipality in compliance with state and federal law regarding identity theft protection.

(2) This policy enables the municipality to protect existing customers, reducing risk from identity fraud, and minimize potential damage to the municipality from fraudulent new accounts. The program will help the municipality:

(a) Identify risks that signify potentially fraudulent activity within new or existing covered accounts;

(b) Detect risks when they occur in covered accounts;

(c) Respond to risks to determine if fraudulent activity has occurred and act if fraud has been attempted or committed; and

(d) Update the program periodically, including reviewing the accounts that are covered and the identified risks that are part of the program. (Ord. #215-10, June 2015)

20-403. Scope. This policy and protection program applies to employees, contractors, consultants, temporary workers, and other workers at the municipality, including all personnel affiliated with third parties. (Ord. #215-10, June 2015)

20-404. Sensitive information policy. (1) Definition of “sensitive information.” “Sensitive information” includes the following items whether stored in electronic or printed format:

- (a) Credit card information, including any of the following:
 - (i) Credit card number (in part or whole).
 - (ii) Credit card expiration date.
 - (iii) Cardholder name.
 - (iv) Cardholder address.
- (b) Tax identification numbers, including:
 - (i) Social Security number.
 - (ii) Business identification number.
 - (iii) Employer identification numbers.
- (c) Payroll information, including, among other information:
 - (i) Paychecks.
 - (ii) Pay stubs.
- (d) Cafeteria plan check requests and associated paperwork.
- (e) Medical information for any employee or customer, including but not limited to:
 - (i) Doctor names and claims.
 - (ii) Insurance claims.
 - (iii) Prescriptions.
 - (iv) Any related personal medical information.
- (f) Other personal information belonging to any customer, employee or contractor, examples of which include:
 - (i) Date of birth.
 - (ii) Address.
 - (iii) Phone numbers.
 - (iv) Maiden name.
 - (v) Names.
 - (vi) Customer number.

(g) Municipal personnel are encouraged to use common sense judgment in securing confidential information to the proper extent. Furthermore, this section should be read in conjunction with the Tennessee Public Records Act, *Tennessee Code Annotated*, §§ 10-7-101, *et seq.* and the municipality's open records policy. If an employee is uncertain of the sensitivity of a particular piece of information, he should contact his supervisor. In the event that the municipality cannot resolve a conflict between this policy and the Tennessee Public Records Act, the municipality will contact the Tennessee Office of Open Records.

(2) Hard copy distribution. Each employee and contractor performing work for the municipality will comply with the following policies:

(a) File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.

(b) Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.

(c) Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.

(d) Whiteboards, dry-erase boards, writing tablets, etc., in common shared work areas will be erased, removed, or shredded when not in use.

(e) When documents containing sensitive information are discarded they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD)-approved shredding device. Locked shred bins are labeled "Confidential paper shredding and recycling." Municipal records, however, may only be destroyed in accordance with the city's records retention policy.

(3) Electronic distribution. Each employee and contractor performing work for the municipality will comply with the following policies:

(a) Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.

(b) Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail: "This message may contain confidential and/or proprietary information and is intended for the person/entity to whom/which it was originally addressed. Any use by others is strictly prohibited." (Ord. #215-10, June 2015, modified)

20-405. Additional identity theft prevention program. If the municipality maintains certain covered accounts pursuant to federal legislation, the municipality may include the additional program details.

(1) Covered accounts. A covered account includes any account that involves or is designed to permit multiple payments or transactions. Every new and existing customer account that meets the following criteria is covered by this program:

(a) Business, personal and household accounts for which there is a reasonably foreseeable risk of identity theft; or

(b) Business, personal and household accounts, for which there is a reasonably foreseeable risk to the safety or soundness of the

municipality from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(2) Red flags. (a) The following red flags are potential indicators of fraud. Anytime a red flag, or a situation closely resembling a red flag, is apparent, it should be investigated for verification.

(i) Alerts, notifications or warnings from a consumer reporting agency;

(ii) A fraud or active duty alert included with a consumer report;

(iii) A notice of credit freeze from a consumer reporting agency in response to a request for a consumer report; or

(iv) A notice of address discrepancy from a consumer reporting agency as defined in § 334.82(b) of the Fairness and Accuracy in Credit Transactions Act, 15 U.S.C. 1681, *et seq.*

(b) Red flags also include consumer reports that indicate a pattern of activity inconsistent with the history and usual pattern of activity of an applicant or customer, such as:

(i) A recent and significant increase in the volume of inquiries;

(ii) An unusual number of recently established credit relationships;

(iii) A material change in the use of credit, especially with respect to recently established credit relationships; or

(iv) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(3) Suspicious documents.

(a) Documents provided for identification that appear to have been altered or forged.

(b) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification,

(c) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.

(d) Other information on the identification is not consistent with readily accessible information that is on file with the municipality, such as a signature card or a recent check.

(e) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(4) Suspicious personal identifying information. (a) Personal identifying information provided is inconsistent when compared against external information sources used by the municipality. For example:

(i) The address does not match any address in the consumer report;

(ii) Social Security number (SSN) has not been issued or is listed on the Social Security Administration's death master file; or

(iii) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.

(b) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the municipality. For example, the address on an application is the same as the address provided on a fraudulent application.

(c) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the municipality. For example:

(i) The address on an application is fictitious, a mail drop, or a prison; or

(ii) The phone number is invalid or is associated with a pager or answering service.

(d) The SSN provided is the same as that submitted by other persons opening an account or other customers.

(e) The address or telephone number provided is the same as or similar to the address or telephone number submitted by an unusually large number of other customers or other persons opening accounts.

(f) The customer or the person opening the covered account fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

(g) Personal identifying information provided is not consistent with personal identifying information that is on file with the municipality.

(h) When using security questions (mother's maiden name, pet's name, etc.), the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(5) Unusual use of, or suspicious activity related to, the covered account. (a) Shortly following the notice of a change of address for a covered account, the municipality receives a request for new, additional, or replacement goods or services, or for the addition of authorized users on the account.

(b) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example, the customer fails to make the first payment or makes an initial payment but no subsequent payments.

(c) A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

(i) Nonpayment when there is no history of late or missed payments; or

(ii) A material change in purchasing or usage patterns.

(d) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

(e) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.

(f) The municipality is notified that the customer is not receiving paper account statements.

(g) The municipality is notified of unauthorized charges or transactions in connection with a customer's covered account.

(h) The municipality receives notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts held by the municipality.

(i) The municipality is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft. (Ord. #215-10, June 2015, modified)

20-406. Responding to red flags.

(1) Once potentially fraudulent activity is detected, an employee must act quickly, as a rapid appropriate response can protect customers and the municipality from damages and loss.

(a) Once potentially fraudulent activity is detected, gather all related documentation and write a description of the situation. Present this information to the designated authority for determination.

(b) The designated authority will complete additional authentication to determine whether the attempted transaction was fraudulent or authentic.

(2) If a transaction is determined to be fraudulent, appropriate actions must be taken immediately. Actions may include:

(a) Canceling the transaction;

(b) Notifying and cooperating with appropriate law enforcement;

(c) Determining the extent of liability of the municipality; and

(d) Notifying the actual customer that fraud has been attempted. (Ord. #215-10, June 2015)

20-407. Periodic updates to plan. (1) At periodic intervals established in the program, or as required, the program will be re-evaluated to determine whether all aspects of the program are up to date and applicable in the current business environment.

(2) Periodic reviews will include an assessment of which accounts are covered by the program.

(3) As part of the review, red flags may be revised, replaced or eliminated. Defining new red flags may also be appropriate.

(4) Actions to take in the event that fraudulent activity is discovered may also require revision to reduce damage to the municipality and its customers. (Ord. #215-10, June 2015)

20-408. Program administration. (1) Involvement of management.

(a) The identity theft prevention program shall not be operated as an extension to existing fraud prevention programs, and its importance warrants the highest level of attention.

(b) The identity theft prevention program is the responsibility of the governing body. Approval of the initial plan must be appropriately documented and maintained.

(c) Operational responsibility of the program is delegated to the city manager.

(2) Staff training. (a) Staff training shall be conducted for all employees, officials and contractors for whom it is reasonably foreseeable that they may come into contact with accounts or personally identifiable information that may constitute a risk to the municipality or its customers.

(b) The city manager is responsible for ensuring identity theft training for all requisite employees and contractors.

(c) Employees must receive annual training in all elements of this policy.

(d) To ensure maximum effectiveness, employees may continue to receive additional training as changes to the program are made.

(3) Oversight of service provider arrangements. (a) It is the responsibility of the municipality to ensure that the activities of all service providers are conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft,

(b) A service provider that maintains its own identity theft prevention program, consistent with the guidance of the red flag rules and validated by appropriate due diligence, may be considered to be meeting these requirements.

(c) Any specific requirements should be specifically addressed in the appropriate contract arrangements. (Ord. #215-10, June 2015)

CHAPTER 5

WILDLIFE HABITAT

SECTION

20-501. Wildlife habitat.

20-501. Wildlife habitat. Notwithstanding any provision of the ordinances of the City of Baneberry to the contrary, a three (3) year pilot/test project is authorized in and upon lots numbered seven (7), eight (8), twelve (12), and thirteen (13) (and more particularly described as parcels seven (7), eight (8), twelve (12), and thirteen (13); Lakemont Subdivision) to establish and maintain a dedicated wildlife habitat utilizing native warm season grasses (hereafter referred to as "NWSG"). The three (3) year pilot/test project described herein shall be extended an additional three (3) years from Jan. 1, 2017, to Jan. 1, 2020.

During the three (3) year pilot/test period described herein, lots eight (8), twelve (12), and thirteen (13) and a portion of lot seven (7) (hereinafter referred to as the "designated property"), which are designated as a part of the pilot/test program, are exempt from the provisions of Baneberry City Ord. #205-10 pertaining to grass height.

During the three (3) year pilot/test period described herein, the designated property shall adhere to the following requirements/restrictions:

(1) A minimum twenty foot (20') buffer zone/fire break will be established separating the wildlife habitat from adjoining properties.

(2) The buffer zone/fire break may be utilized by residents of the City of Baneberry as a walking trail connecting Mountain View Lane with Bonnevista Drive.

(3) During the pilot/test program, proper maintenance shall be performed in and upon the designated property in accordance with the following publications: *A Landowner's Guide to Native Warm-Season Grasses in the Mid-South* (University of Tennessee Extension publication PB 1746) and *Wildlife Management for Tennessee Landowners* (Tennessee Wildlife Resources Agency).

(4) Prescribed burning will only be conducted after approval from all necessary agencies, including, but not limited to the Baneberry City Manager for a burn permit and after notification of the City of White Pine and Baneberry Fire Departments. During the official wildfire season, permits will also be required from the Tennessee Department of Agriculture, Division of Forestry. Any and all burning will only be conducted under appropriate conditions and under the supervision of the state wildlife resources agency and other authorized Jefferson County and state agencies and/or officials. In the event smoke-management becomes an issue, or conditions preclude prescribed burning, habitat management will utilize prescribed disking procedures.

The pilot/test program is a temporary program, and shall cease on the date prescribed herein. At the end of the three (3) year period described herein, the Baneberry City Council shall evaluate the success and progress of the program. The Baneberry City Council may, at the cessation of the pilot/test program, consider amending the City of Baneberry ordinances to establish the designated property and other properties within the city limits of Baneberry as wildlife habitats and to establish additional regulation of such properties.

No provision of this section shall prevent the City of Baneberry from placing further regulations and restrictions upon the designated property as they refer to the pilot/test program. (Ord. #207-5, __ __, as amended by Ord. #217-7, March 2017)

ORDINANCE NO. 2022-005**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF BANEERRY, TENNESSEE.**

WHEREAS some of the ordinances of the City of Baneberry are obsolete, and

WHEREAS some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Commissioners of the City of Baneberry, 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 "Baneberry Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF BANEERRY, AS FOLLOWS:¹

Section 1. Ordinances codified. The ordinances of the City of Baneberry 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 "Baneberry Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or

¹Charter reference
Tennessee Code Annotated, § 6-20-214.

providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments 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, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) 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.¹

¹State law reference

For authority to allow deferred payment of fines, or payment by
(continued...)

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 board of commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

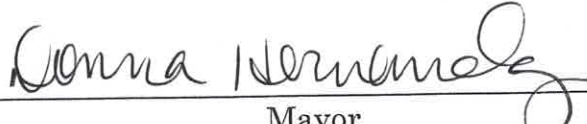
(...continued)

installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 10. Date of effect. This ordinance shall take effect no sooner than fifteen (15) days after first passage thereof, provided that it is read two (2) different days in open session before its adoption, and not less than one week elapses between first and second readings, the welfare of the town 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 June 16, , 2022

Passed 2nd reading June 20, , 2022




Mayor



Recorder

APPROVED AS TO FORM:



City Attorney

CERTIFICATE OF AUTHENTICITY

City of Baneberry
County of Jefferson
State of Tennessee

I hereby certify that I am the Recorder of the City of Baneberry, Tennessee, duly appointed and qualified; that as such, I am the official custodian of the minute books of the city and of the books, papers, records, and documents of the city and, that the foregoing pages of the "Baneberry Municipal Code" contain a true, perfect, and correct copy of the city's code of ordinances and the ordinance adopting the same passed on final reading the 20 day of June, 2022.

In witness whereof, I have hereunto subscribed my name this 20 day of June, 2022.


Recorder