

**THE
DUCKTOWN
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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CITY OF DUCKTOWN, TENNESSEE

MAYOR

James Talley

VICE MAYOR

Douglas D. Collins

COMMISSIONER

James L. Cearley

CITY CLERK

Martha Fowler

PREFACE

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

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

By utilizing the table of contents, 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 clerk 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 Hannah Kraemer, Program Resource Specialist, and Linda Winstead, Nancy Gibson and Doug Brown, the MTAS Administrative Specialists, is gratefully acknowledged.

Steve Lobertini
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 Ducktown 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 clerk 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)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

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

¹Municipal code references

Fire protection: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

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 at 7:00 P.M. on the 1ST Thursday of each month at the Ducktown City Hall. If the regular meeting falls on a holiday, or on a day observed as a holiday, the regular meeting shall be held at the same time and place on the next regular work day. (Ord. #2, March 1952, modified)

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 city clerk.
- (3) Reading of minutes of the previous meeting by the city clerk, and approval or correction.
- (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) Grievances from citizens.
- (9) 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. 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 city clerk and during sessions in which the ordinance has its second reading.

1-105. Date of city election. (1) The date of the city election for city commissioners shall be the same day as the state general election, the first Tuesday after the first Monday in November of even-numbered years.

(2) The terms of office of the two (2) commissioners elected in December 2007 shall be extended to the regular election held the first Tuesday after the first Monday in November 2012. Each commissioner elected at that time shall hold office for four (4) years, or until their successors are elected and qualified.

(3) The term of office of the commissioner elected in December 2009 shall be extended to the next regular general election held the first Tuesday after the first Monday in November 2014. The commissioner elected at that time shall hold office for four (4) years, or until his successor is elected and qualified. (Ord. #57, June 2007)

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 of him 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 of him 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**CITY CLERK¹****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, shall preserve the original copy of all ordinances in a separate ordinance book, and shall certify copies of any enacted ordinance. (Ord. #22, March 1952, modified)

1-402. To perform general administrative duties, etc. The city clerk shall perform all administrative duties for the board of commissioners, the city manager, and the city which are assigned him. He 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.

City clerk 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

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

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

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

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

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

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

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

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

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

officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words “municipal” and “municipality” include these separate entities. (Ord. #58, June 2007)

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

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #58, June 2007)

1-503. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (Ord. #58, June 2007)

1-504. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #58, June 2007)

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

1-505. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #58, June 2007)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #58, June 2007)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #58, June 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #58, June 2007)

1-509. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #58, June 2007)

1-510. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or

employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #58, June 2007)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #58, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT¹

[RESERVED FOR FUTURE USE]

¹Charter references

City judge:

Appointment and term: § 6-21-501.

Jurisdiction: § 6-21-501.

Qualifications: § 6-21-501.

City court operations:

Appeals from judgment: § 6-21-508.

Appearance bonds: § 6-21-505.

Arrest warrants: § 6-21-504.

Docket maintenance: § 6-21-503.

Fines and costs:

Amounts: §§ 6-21-502, 6-21-507.

Collection: § 6-21-507.

Disposition: § 6-21-506.

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

1. SOCIAL SECURITY.
2. PERSONNEL POLICY.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1**SOCIAL SECURITY****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.
- 4-106. Exemption from coverage.

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

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section.

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

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

4-105. Records and reports. The city clerk shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

4-106. Exemption from coverage. There is hereby exempted from this chapter any authority to make any agreement with respect to any position, any employee or official not authorized to be covered by applicable state and federal laws or regulations.

CHAPTER 2
PERSONNEL POLICY

SECTION

- 4-201. Purpose, etc.
- 4-202. Employees.
- 4-203. Hiring procedures.
- 4-204. Benefits.
- 4-205. Grievance procedures.
- 4-206. State and federal personnel mandates.
- 4-207. Dismissal.
- 4-208. Personnel policy changes.

4-201. Purpose, etc. (1) Purpose. The purpose of this chapter is to establish a system of personnel administration in the City of Ducktown, Tennessee.

(2) At-will employer. The City of Ducktown, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contract right to any job for any employee.

(3) Coverage. The following personnel are not covered by this policy, unless otherwise provided:

- (a) All elected officials.
- (b) Members of appointed boards and commissions.
- (c) Consultants, advisers and legal counsel rendering temporary professional service.
- (d) The city attorney.
- (e) Independent contractors and/or contract employees.
- (f) Volunteer personnel.
- (g) The city judge.

All other employees of the municipal government are covered by this personnel policy.

4-202. Employees. (1) Full-time. Full-time employees are individuals employed by the municipal government who normally work forty (40) hours per week.

(2) Part-time. Part-time employees are individuals who may not work on a daily basis or work on a daily basis fewer than eight (8) hours a day and may work fewer than thirty (30) hours per week or who are temporary and/or seasonal employees.

4-203. Hiring procedures. (1) Policy statement. The primary objective of this hiring policy is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities.

(2) Applications. All persons seeking employment with the city must complete a standard application form provided by the municipal government. Applications for employment shall be accepted in the city recorder's office during regular office hours only. Applicants will remain on active status for six (6) months after accepted or until the job for which the application is submitted is filled, whichever period of time is less.

(3) Interviews. All appointments will be preceded by an interview with the mayor.

(4) Pre-appointment exams. For certain positions, the employee may be required to undergo a validated physical agility examination related to the essential functions of the job, validated written and/or oral tests related to the essential functions of the job, drug testing, and upon a conditional offer of employment, a medical examination to determine the employee's ability to perform the essential functions of the job. Reasonable accommodations shall be made in the physical agility exam for applicants with disabilities making a request for accommodations.

(5) Appointments. All appointments shall be made in accordance with lawful provisions of the municipal charter if there are applicable provisions in the charter.

4-204. Benefits. (1) Holidays. (a) Generally, full-time employees are allowed the day off with pay on the following holidays:

<u>Holiday Name</u>	<u>Holiday Date</u>
New Year's Day	January 1st of each year
Martin Luther King Day	Third Monday in January
Good Friday	Friday before Easter of each year
Memorial Day	Last Monday in May of each year
Independence Day	July 4th of each year
Labor Day	First Monday in September of each year

Thanksgiving Day

Fourth Thursday in November of each year

Christmas Day

December 25th of each year

Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, to receive compensation for the holiday.

Any employee required to work a regular holiday shall be granted eight (8) hours off on an alternate day approved by the supervisor or and additional eight (8) hours pay off the holiday.

(2) Vacation leave. (a) All full-time employees of the municipality shall accrue vacation leave monthly upon the completion of each calendar month of service. Vacation leave will begin to accrue as of the first full month of the employment, but cannot be taken until the employee has completed twelve (12) months of employment. As the number of years of service increases, the amount of leave granted increases and may accumulate to the maximum accrual as shown in the table below:

Years of Service	Vacation Per Year	Accrual Rate
1	12 working days	1 day per month
10 years and over	18 working days	1.5 days per month

For vacation leave purposes the term "working day" as it applies herein shall be computed on an eight (8) hour basis. Vacation leave exceeding the maximum accrual limit shall be forfeited.

Vacation leave shall be taken at a time approved by the employee's supervisor. Upon separation, employees are entitled to be reimbursed for any unused vacation leave, not to exceed the maximum accrual allocated for the years of service completed.

(b) Vacation leave compensation shall be computed at the employee's regular straight time pay rate in effect as of the date that the vacation leave time is earned.

(c) The date of service to be used in determining vacation leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(d) An employee shall not be eligible to take vacation leave until he or she has had one (1) year continuous employment.

(e) Vacation leave may not be taken before it is earned.

(f) Temporary, casual or part-time employees are not eligible for accrual of vacation leave.

(g) For vacation purposes, any reinstated employee shall be considered as a new employee regardless of the reason for separation.

(h) Earned vacation leave may be taken in whole or in part throughout the year at such times as may be approved by the head of the department for which such employee works. No less than four (4) hours may be taken at any one time. In the case of employees who handle receipt of payments of taxes, water bills, court fines, or other funds being paid over to the city, such employees shall not take any vacation time of less than five (5) days at one period.

(i) No more than thirty (30) days vacation leave may be accumulated by any employee.

(j) Any official holiday falling within a period of vacation leave shall be charged as holiday leave rather than vacation leave.

(k) Any regular, full-time employee who is separated from employment with the city for any reason, including retirement, may receive terminal vacation leave pay for any unused portion of his or her accumulated vacation leave up to the limit of vacation leave allowed to be accumulated under this chapter.

(3) Sick leave. (a) All full-time employees of the city shall be allowed to accumulate sick leave with pay at the rate of one (1) working day for each full calendar month of service completed up to an unused maximum of ninety (90) working days. Sick leave shall be considered a benefit and privilege and not a right for the employees to use at his or her discretion. Employees shall, therefore, utilize their accumulated sick leave allowance for absences due to personal illness or physical incapacity, personal illness or physical incapacity within the immediate family of the employee (as defined in paragraph 3 below), enforced quarantine of the employee in accordance with community health regulations, disability resulting from pregnancy, childbirth or related medical conditions, or so as to keep an appointment with a licensed medical doctor, dentist or other recognized health care practitioner.

(b) The board of mayor and aldermen may, in its discretion, prescribe regulations requiring that a health care practitioner's certificate or other satisfactory evidence be filed with the city supporting the absence before it may be properly chargeable as sick leave.

(c) For sick leave purposes the term "working day" as it applies in this section shall be computed on an eight (8) hour basis. The term "immediate family" shall be defined as spouse, children, parents, brothers and sisters, and grandparents, both of the employee and spouse of the employee.

(d) Sick leave compensation shall be figured at the employee's straight time pay rate in effect at the date it is used by the employee.

(e) The date of service to be used in determining sick leave time accrual rate is the beginning date of the employee's current period of

continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(f) Sick leave shall begin to accrue on the first day of the month next following the first full calendar month of employment.

(g) Temporary, casual or part-time employees are not eligible for accrual of sick leave.

(h) For sick leave purposes any reinstated employee shall be considered as a new employee regardless of the reason for his or her separation.

(i) Any employee who abuses these sick leave provisions or who deliberately makes or cause to be made any false or misleading statement or claim concerning the same, shall be subject to the loss of any such benefits, dismissal from his or her employment with the city or other disciplinary action.

(j) Any employee of the city who is injured when engaging in his employment for the city may be carried on sick leave for any accumulated sick leave that he or she has to his or her credit, but in no case shall any employee be allowed to receive sick leave pay while drawing any workers compensation or other disability payments resulting from any benefit provided by the city.

4-205. Grievance procedures. The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodations under Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction by written notice. Once this is done, the following steps are taken:

- Step 1 Discuss the problem with the immediate supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.

- Step 2 Discuss the problem with the mayor. If the grievance is not resolved, it is advanced to the third step along with all documentation.

- Step 3 Discuss the problem with the board of commissioners of the municipality. The board of commissioners' decision is the last and final step in the process. The decision of the board of commissioners is final and binding to all parties involved.

4-206. State and federal personnel mandates. (1) Discrimination prohibited. The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964--42 U.S.C. §§ 2000e-2000e15; Equal Pay Act 1963--29 U.S.C. § 206(d); Age Discrimination Employment Act--29 U.S.C. § 621 et seq.; Americans with Disabilities Act--42 U.S.C. §§ 506 et seq.

(2) Sexual harassment prohibited. Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subject to sexual harassment should immediately report this to the city clerk or mayor. Within the limits of the Tennessee Open Records Law, the municipality will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will attempt to make the corrective action reflect the severity of the conduct. If it is determined that no sexual harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination.

(3) Occupational safety and health. The municipality shall provide job safety and health protection for all employees in accordance with the Occupational Safety and Health Administration (OSHA) legislation (29 U.S.C. §§ 656 et seq. and the Tennessee OSHA Law (Tennessee Code Annotated §§ 50-3-101 et seq.)

(4) Overtime compensation. The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees (29 C.F.R. §§ 553.1 et seq.)

(5) Military leave/veterans' re-employment. All employees who are members of reserve components of the armed forces, including the National

Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding fifteen (15) working days in any one calendar year (Tennessee Code Annotated, § 8-33-109). Also, any employee of the municipality who leaves his/her job voluntarily or involuntarily to enter active duty in the armed forces may return to the job in accordance with Veterans Re-employment Rights (38 U.S.C. § 202-2010) and the Tennessee Military Leave Act (Tennessee Code Annotated, § 3-33-101 *et seq.*)

(6) Residence requirements. No person "currently employed" by the municipality can be dismissed or penalized "solely on the basis of non-residence" (Tennessee Code Annotated, § 8-50-107).

(7) Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter (Tennessee Code Annotated, § 8-50-601--604).

(8) Civil leave. Civil leave with pay shall be granted to employees for the following reasons:

(a) Jury duty (Tennessee Code Annotated, § 22-4-108). The employee shall turn over any payments made to the employee for jury duty to the municipality.

(b) To answer a subpoena to testify for the municipality.

(9) Voting. When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with Tennessee Code Annotated, § 2-1-106.

(10) Political activity. Employees who have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election (Tennessee Code Annotated, § 7-51-1501).

(11) Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy, as required by Tennessee Code Annotated, § 6-54-901.

4-207. Dismissal. (1) At will. Employees may be dismissed for cause, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter.

(2) Name-clearing hearing. A name-clearing hearing will be given to any terminated, demoted, or suspended employee that requests one. This hearing will not be conducted to provide an employee any property rights. The purpose for the hearing is solely to let the employee clear his/her name.

4-208. Personnel policy changes. Nothing in this chapter may be construed as creating a property right or contract right to the job for any

employee. The provisions of this personnel policy may be unilaterally changed by ordinance of the governing body from time to time as the need arises.

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

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

4-301. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of Ducktown.

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

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

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

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

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

¹The Occupational Safety and Health Program for the City of Ducktown, including Appendices I through V is included in the Appendix to this municipal code.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program.

4-303. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Ducktown shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Ducktown whether part-time or full-time, seasonal or permanent.

4-304. Standards authorized. The occupational safety and health standards adopted by the City of Ducktown are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹

4-305. Variances from standards authorized. The City of Ducktown may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Ducktown shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city shall be deemed sufficient notice to employees.

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

4-306. Administration. For the purposes of this chapter, the _____ is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the city's occupational safety and health program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan.

4-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Ducktown.

CHAPTER 4

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-401. Purpose.
- 4-402. Coverage.
- 4-403. Administration.
- 4-404. Definitions.
- 4-405. Policy statement.
- 4-406. General guidelines.
- 4-407. Hepatitis B vaccinations.
- 4-408. Reporting potential exposure.
- 4-409. Hepatitis B virus post-exposure management.
- 4-410. Human immunodeficiency virus post-exposure management.
- 4-411. Disability benefits.
- 4-412. Training regular employees.
- 4-413. Training high risk employees.
- 4-414. Training new employees.
- 4-415. Records and reports.
- 4-416. Legal rights of victims of communicable diseases.

4-401. Purpose. It is the responsibility of the City of Ducktown to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Ducktown, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB).

4-402. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination.

4-403. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of commissioners any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of commissioners.

4-404. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other potentially infectious materials to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected.

4-405. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood.

4-406. General guidelines. General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other potentially infectious materials which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp

items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. NOTE: Sharp objects must be placed in an impervious container and shall be properly disposed of.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD," or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up.

4-407. Hepatitis B vaccinations. The City of Ducktown shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator.

4-408. Reporting potential exposure. City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided.

4-409. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (i.e., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized.

4-410. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure.

4-411. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of Tennessee Code Annotated, § 50-6-303.

4-412. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents.

4-413. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy.

4-414. Training new employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work.

4-415. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers.

4-416. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and, or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not

make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution.

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Enforcement.
- 4-502. Travel policy.
- 4-503. Travel reimbursement rate schedules.
- 4-504. Administrative procedures.

4-501. Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these regulations.

4-502. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

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

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement.

4-503. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs.

4-504. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city clerk.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993.

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING.

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. The Peoples Bank of East Tennessee, is hereby designated as the official depository for all city funds.²

5-102. Fiscal year of the city. The fiscal year of the city shall be from the 1st day of July to the 30th day of June of the year next following.³

¹Charter reference
Finance and taxation: title 6, chapter 22.

²Charter reference
Depositories of city funds: § 6-22-120.

³Charter reference
Fiscal year: § 6-22-121.

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES¹

SECTION

5-201. When due and payable.

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

5-201. When due and payable.² Taxes levied by the city against real and personal property shall become due and payable annually on the first day of October of the year for which levied.

5-202. When delinquent--penalty and interest.³ All real property taxes shall become delinquent on and after the first day of March next after they

¹State law references

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

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

²Charter references

Tennessee Code Annotated, § 6-22-110 sets the due date of November 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-22-113 provides that a different tax due date may be set by ordinance (by unanimous vote of the board of commissioners.)

³Charter references

Tennessee Code Annotated, § 6-22-112 sets the tax delinquency of December 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-22-113 provides that a different delinquent date may be set by ordinance (by unanimous vote of the board of commissioners).

become due and payable, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter.¹

¹Charter reference

Tennessee Code Annotated, § 6-22-114 directs the finance director to turn over the collection of delinquent property taxes to the county trustee.

State law reference

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

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

CHAPTER 3

PRIVILEGE TAXES

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 businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (Ord. #6, March 1952, modified)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the city manager to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (Ord. #6, March 1952, modified)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The city manager is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹

¹State law reference

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

Municipal code references

Alcohol and beer regulations: title 8.

CHAPTER 5

PURCHASING

SECTION

- 5-501. Purchasing rules and regulations.
- 5-502. Purchasing agent; designation of.
- 5-503. Purchasing agent; powers and duties.
- 5-504. Purchasing authority -- amounts of purchases.
- 5-505. Exceptions for competitive bids.

5-501. Purchasing rules and regulations. The city manager is hereby authorized and directed to establish, promulgate and enforce rules and regulations, which will govern the conduct of the city's purchasing. Such rules and regulations shall be published and designated as the "Purchasing Manual for the City of Ducktown" and shall be the provisions controlling purchases for the city. Said manual shall be subject to initial approval by resolution approved by the board of commissioners. Thereafter, the city manager may, from time to time, suggest changes and amendments to the purchasing manual, which changes or amendments shall be first approved by resolution of the board of commissioners.

5-502. Purchasing agent; designation of. The purchasing agent shall be designated by the city manager.

5-503. Purchasing agent; powers and duties. The purchasing agent shall perform all duties with respect to the purchase of supplies as required by this chapter or other ordinances and shall have the power and duties as set forth in the city's purchasing manual.

5-504. Purchasing authority -- amounts of purchases. (1) Open market purchases less than two thousand five hundred dollars (\$2,500.00) shall, whenever possible, be based upon three (3) oral quotations which will be valid for ninety (90) days. The purchasing agent shall expressly approve such expenditures. For recurring, normal and routine purchases of materials, supplies or services, competitive bids shall not be required for each purchase but shall, whenever possible, be obtained on at least an annual basis.

(2) Open market purchases above two thousand five hundred dollars (\$2,500.00) and less than seven thousand five hundred dollars (\$7,500.00) in any fiscal year may be made in the open market without public advertisement but shall, whenever possible, be based upon at least three (3) written quotations from suppliers or contractors which will be valid for ninety (90) days. The award shall be given to the lowest responsible supplier or contractor provided, however, that the exceptions to competitive bidding requirements set forth in

Tennessee Code Annotated, title 6, chapter 56, part 3 shall be applicable to such transactions. The purchasing agent shall expressly approve such expenditures. For recurring, normal and routine purchases of materials, supplies or services, competitive bids shall not be required for each purchase but shall, whenever possible, be obtained on at least an annual basis.

(3) All expenditures for supplies, materials, equipment or contractual services, when the estimated cost thereof shall exceed seven thousand five hundred dollars (\$7,500.00) shall be purchased by formal written contract or purchase order from the lowest responsible bidder submitting sealed bids, after advertisement of bids in a local newspaper of general circulation not less than five (5) days before bid opening date, subject to the exceptions set forth in Tennessee Code Annotated, title 6, chapter 56, part 3. Said transactions shall be expressly approved by the board of commissioners.

5-505. Exceptions for competitive bids. Except as otherwise provided in this chapter, all purchases, leases or lease-purchase agreements shall be made or entered into only after public advertisement and competitive bid, except as follows:

(1) To purchases costing less than two thousand five hundred dollars (\$2,500.00); provided, that this exemption shall not apply to purchases of like items that individually cost less than two thousand five hundred dollars (\$2,500.00), but that are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed two thousand five hundred dollars (\$2,500.00) during any fiscal year;

(2) When any goods or services may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product that is required by the city. Department heads will notify the purchasing agent of the intent to purchase from a sole source or proprietary vendor. A record of all such sole source or proprietary purchases shall be made by the purchasing agent and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the board of commissioners and the city manager by the purchasing agent and shall include all items of information as required for the record;

(3) To purchases or leases of any supplies, materials, or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A record of any such emergency purchase shall be made by the purchasing agent authorizing such emergency purchase and shall specify the amount paid, the items purchased, from whom the purchase was made and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the board of commissioners and city manager by the purchasing agent and shall include all items of information as required in the record;

(4) Leases and lease-purchase agreements requiring total payments of less than two thousand five hundred dollars (\$2,500.00) in each fiscal year the agreement is in effect; provided, that this exemption shall not apply to leases of like or related items that individually may be leased or lease-purchased with total payments of less than two thousand five hundred dollars (\$2,500.00) in any fiscal year, but that are customarily leased or lease-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be two thousand five hundred dollars (\$2,500.00) or more in any fiscal year;

(5) To purchase, lease, or lease-purchase real property;

(6) To purchase, lease, or lease purchase from any federal, state, or local government unit or agency of secondhand articles or equipment or other materials, supplies, commodities, and equipment;

(7) To purchase perishable commodities, when such items are purchased in the open market. A record of all such purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items, purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, to the city manager and the board of commissioners, and shall include all items of information as required in the record. Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the Tennessee Department of General Services contract where available;

(8) To purchase, for resale, of natural gas and propane gas;

(9) To purchase from other local governments in conformity with Tennessee Code Annotated, § 12-3-1001;

(10) Investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated, title 9, chapter 4, part 7;

(11) Purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Interlocal Cooperation Act, compiled in Tennessee Code Annotated, title 12, chapter 9;

(12) Purchases from non-profit organizations whose sole purpose is to provide goods and services specifically to municipalities.

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST

SECTION

6-101. County sheriff's department to enforce municipal ordinances.

6-101. County sheriff's department to enforce municipal ordinances. The Sheriff's Department of Polk County shall enforce the municipal ordinances of the city according to the terms of the agreement entered into between the city and the County of Polk, the Sheriff's Department of the County of Polk, and the Polk County Court of General Sessions, pursuant to Tennessee Code Annotated, §§ 8-8-201(34), 12-9-104 and 16-15-501.¹

¹The agreement dated June 30, 2006, is of record in the office of the city clerk.

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

1. FIRE PROTECTION SERVICE.
2. FIREWORKS.

CHAPTER 1**FIRE PROTECTION SERVICE****SECTION**

7-101. Furnished under contract.

7-101. Furnished under contract. Fire protection service shall be furnished to the City of Ducktown and its inhabitants pursuant to a contract with East Polk County Fire and Rescue, a Tennessee non-profit corporation operating as an independent fire department. The rights, powers, duties and obligations of the City of Ducktown and East Polk County Fire and Rescue are clearly stated in the contract executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the fire protection service agreement between the City of Ducktown and East Polk County Fire and Rescue, see the Emergency Services Contract dated March 2, 2006, in the office of the city clerk.

CHAPTER 2**FIREWORKS****SECTION**

7-201. Prohibited; exceptions.

7-202. Violation and penalty.

7-201. Prohibited; exceptions. It is unlawful to manufacture, possess, display, sell, give away, and/or discharge or shoot fireworks within the corporate limits of the City of Ducktown, Polk County, Tennessee, except that pyrotechnical displays and discharges may be authorized by permission of the chief of police when under the control of a qualified individual and the time, manner and place of discharge is approved by him. (Ord. #9, March, 1952)

7-202. Violation and penalty. Any person or persons, firm, or corporation, violating any provision of said ordinance shall be guilty of a civil offense and upon conviction shall be fined not less than two dollars (\$2.00) and not more than fifty dollars (\$50.00) for each separate offense. (Ord. #9, March 1952)

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (Ord #10, March 1952, modified)

¹Municipal code reference

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

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Restrictions upon granting of permits.
- 8-211. Restaurants further restricted.
- 8-212. Submittal of sales reports.
- 8-213. Interference with public health, safety, and morals prohibited.
- 8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-215. Regulation of use of beer signs.
- 8-216. Revocation or suspension of beer permits.
- 8-217. Civil penalty in lieu of revocation or suspension.
- 8-218. Loss of clerk's certification for sale to minor.
- 8-219. Violations.

8-201. Beer board established. There is hereby established a beer board to be composed of five (5) members. The mayor shall serve as chairman of the beer board. Four (4) members shall be appointed by the board of commissioners to serve four (4) year terms. Initial appointments shall be staggered terms, with two (2) appointments serving two (2) years and two (2) appointments serving a four (4) year term. Thereafter, board members serve four (4) years terms ending every two (2) years and the chairman's term running concurrently with the mayoral term of office. All members of the beer board shall serve without compensation. (Ord. #10, March 1952, as replaced by Ord. #68, June 2011)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe, but will meet no less than quarterly on an annual basis. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (as added by Ord. #68, June 2011)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the outcome of every vote; and the provisions of each beer permit issued by the board. (as added by Ord. #68, June 2011)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a “nay” vote. (as added by Ord. #68, June 2011)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as added by Ord. #68, June 2011)

8-206. “Beer” defined. The term “beer” as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101(a)(20); provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non beverage ingredients containing alcohol. (as added by Ord. #68, June 2011)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier’s check payable to the City of Ducktown. Each applicant must be a person of good moral character and they must certify that they have read and are familiar with the provisions of this chapter. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (as added by Ord. #68, June 2011)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Ducktown, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (as added by Ord. #68, June 2011)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales for off-premise consumption or on-premise consumption. An on-premise consumption permit shall only be issued to the permittee whose business is a restaurant or eating place meeting the requirements of § 8-211 within this chapter. A single permit may be issued for on-premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit. (as added by Ord. #68, June 2011)

8-210. Restrictions upon granting or permits. No permit shall be issued to sell any beverage coming within the provisions of this chapter:

- (1) In violation of any provision of state laws.
- (2) Any area of the city that is not zoned C-2 commercial by the city ordinances.
- (3) To any non-restaurant business that does not have other sales than beer, that will provide at least fifty one percent (51%) of the gross sales of the business receipts, (beer sales not to exceed forth-nine percent (49%).
- (4) To any drive-in restaurant, restaurants or businesses offering curb service or drive-through windows (off-premises sales shall be confined to the premises of the structure).
- (5) To any hotel or motel with less than fifty (50) rooms for rent. (as added by Ord. #68, June 2011)

8-211. Restaurants further restricted. A restaurant shall be defined as an establishment having a minimum indoor seating capacity of thirty (30), one that serves meals “at least” one (1) time a day and “at least” five (5) days a week, whose principal business is serving food for consumption on premises, and whose monthly beer sales shall not exceed thirty percent (30%) of the monthly gross sales of the business.

“On-premise” is defined as any portion of the building interior and any deck, patio, porch or other outside serving area that:

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

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

Prior to any existing or new restaurant adding an outdoor dining area wherein beer may be sold for consumption, the owner of the restaurant and the permit holder shall submit a site plan for the outdoor dining area which meets the requirements of the Ducktown Zoning Code to the Ducktown Planning Commission for approval. The site plan shall show that the new outdoor serving area meets all requirements of the zoning district it lies within, to include, but not limited to parking and land coverage requirements. The site plan shall show that the new outdoor serving area meets all requirements of the landscaping and storm water ordinances. (as added by Ord. #68, June 2011)

8-212. Submittal of sales reports. All beer permit holders shall submit quarterly sales reports to the City of Ducktown on forms provided by the city to assure that the permit holder is in compliance with the provisions within this chapter. The city will keep these forms in the permit holder’s individual business tax file so that the confidentiality required by Tennessee Code Annotated, § 67-4-722 may be maintained. The reports shall comply with the following schedule:

<u>Period</u>	<u>Report Due Date</u>
January - March	April 20 th
April - June	July 20 th
July - September	October 20 th
October - December	January 20 th

Any permit holder which for three (3) consecutive months or any four (4) months in any calendar year, who has beer sales exceeding the maximum allowable

percentages listed within this chapter, §§ 8-210 and 8-211 may have said permit suspended or revoked by the beer board. In the alternative, and in lieu of suspension or revocation of the permit, the beer board has the discretion to impose a civil penalty in lieu of suspension in accordance with the terms of Ducktown Municipal Code § 8-217. (as added by Ord. #68, June 2011)

8-213. 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 churches, schools, residences or licensed daycares, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any church, school, residence or licensed daycare. The distances shall be measured in a straight line between the nearest corner of the building proposed to sell, store or manufacture beer and the nearest corner of the building from which there must be a minimum distance. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a church, school, residence or licensed daycare if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (as added by Ord. #68, June 2011)

8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
- (2) Make or allow the sale of beer between the hours of 1:00 A.M. and 6:00 A.M. Tuesday through Saturday, between the hours of 1:00 A.M. and 8:00 A.M. Sunday and between the hours of 12:00 midnight Sunday and 6:00 A.M. Monday.
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (5) Allow drunk persons to loiter about his premises.
- (6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
- (7) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (8) Fail to provide and maintain separate sanitary toilet facilities for men and women, if beer is consumed on the premises.

(9) Employ any person convicted of any offense regarding the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past five (5) years. (as added by Ord. #68, June 2011)

8-215. Regulation of use of beer signs. It shall be unlawful for any person authorized to sell, beer, either on or off-premises, to erect or maintain any more than one (1) sign on the inside or outside of the building displaying the word "beer" or the name of any brand of beer. Said advertising sign or display shall not exceed six inches (6") in height and any sign on the outside of the building shall be placed parallel to the building. (as added by Ord. #68, June 2011)

8-216. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the sheriff or by any member of the beer board pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (as added by Ord. #68, June 2011)

8-217. Civil penalty in lieu of revocation or suspension.

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

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #68, June 2011)

8-218. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 5-75-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #68, June 2011)

8-219. Violations. Except as provided in § 8-216, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #68, June 2011)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.
4. ADULT-ORIENTED ESTABLISHMENTS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violation and penalty.

9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

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

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

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

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

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

(5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously

¹State law references

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

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

owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

9-102. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

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

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

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

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

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

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

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

application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

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

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

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-108. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-110. Violation and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 2

YARD SALES

SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Permit conditions.
- 9-206. Hours of operation.
- 9-207. Exceptions.
- 9-208. Display of sale property.
- 9-209. Display of permit.
- 9-210. Advertising.
- 9-211. Persons exempted from chapter.
- 9-212. Violations and penalty.

9-201. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

9-202. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.

9-203. Permit required. No yard sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the city recorder. Members of more than one residence may join in

obtaining a permit for a yard sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location.

9-204. Permit procedure. (1) Application. The applicant or applicants for a yard sale permit shall file a written application with the city recorder at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the proposed yard sale is to be held.
- (c) The date or dates upon which the sale shall be held.
- (d) The date or dates of any other yard sales by the same applicant or applicants within the current calendar year.

(e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale.

(f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of five dollars (\$5.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit.

9-205. Permit conditions. The permit shall set forth and restrict the time and location of such yard sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year.

9-206. Hours of operation. Yard sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday).

9-207. Exceptions. (1) If sale not held because of inclement weather. If a yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the city recorder shall issue another permit to the applicant for a yard sale to be

conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth yard sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city recorder.

9-208. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard.

9-209. Display of permit. Any permit in possession of the holder or holders of a yard sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official.

9-210. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending yard sale:

(a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the yard sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the yard sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of the yard sale activities.

9-211. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the City

of Ducktown, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances.

9-212. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code.

CHAPTER 3**CABLE TELEVISION****SECTION**

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television shall be furnished to the City of Ducktown and its inhabitants under franchise granted by the board of commissioners of the City of Ducktown, Tennessee. The rights, powers, duties and obligations of the City of Ducktown and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹Cable television franchise agreements are of record in the office of the city clerk.

CHAPTER 4

ADULT-ORIENTED ESTABLISHMENTS

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. License required.
- 9-404. Application for license.
- 9-405. Standards for issuance of license.
- 9-406. Permit required.
- 9-407. Application for permit.
- 9-408. Standards for issuance of permit.
- 9-409. Fees.
- 9-410. Display of license or permit.
- 9-411. Renewal of license or permit.
- 9-412. Revocation of license or permit.
- 9-413. Hours of operation.
- 9-414. Responsibilities of the operator.
- 9-415. Prohibitions and unlawful sexual acts.
- 9-416. Penalties and prosecution.

9-401. Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. It is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

9-402. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for

a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over 20% of floor area, or over 20% of inventory by units or value, or over 20% of revenues, or an inventory of 200 or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

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

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

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

(6) "Board of Commissioners" means the Board of Commissioners of the City of Ducktown, Tennessee.

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

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

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(11) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

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

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

9-403. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Ducktown without first obtaining a license to operate issued by the City of Ducktown.

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

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

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

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within on hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

9-404. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Ducktown. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five (5) percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the City of Ducktown, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

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

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

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Ducktown Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of commissioners.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of commissioners at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied

by the board of commissioners and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Polk County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

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

9-405. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (a) If the applicant is an individual:
 - (i) The applicant shall be at least eighteen (18) years of age.
 - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
- (b) If the applicant is a corporation:
 - (i) All officers, directors and stockholders required to be named under § 9-403 shall be at least eighteen (18) years of age.
 - (ii) No officer, director or stockholder required to be named under § 9-403 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.
- (c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:
 - (i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
 - (ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any

crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

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

(2) No license shall be issued unless the Ducktown Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.

9-406. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief.

9-407. Application for permit. (1) Any person desiring to secure an permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.

(i) The length of time the applicant has been a resident of the City of Ducktown, or its environs, immediately preceding the date of the application.

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

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

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of commissioners at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief.

9-408. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Ducktown Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application.

9-409. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

9-410. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Ducktown Police Department, or any person designated by the board of commissioners.

9-411. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half ($\frac{1}{2}$) of the total fees collected shall be returned.

(3) If the Ducktown Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the

city recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (½) of the fee shall be returned.

(6) If the Ducktown Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief.

9-412. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of commissioners, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

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

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

9-413. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Ducktown Police Department, the Polk County Sheriff's Department, or such other persons as the board of commissioners may designate.

9-414. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of commissioners. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

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

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

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

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

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

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

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

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

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

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

This Adult-Oriented Establishment is Regulated by the City of Ducktown Municipal Code. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

9-415. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

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

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.

9-416. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

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

1. IN GENERAL.
2. DOGS AND CATS.

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

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Violation and penalty.

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street, as measured in a straight line.

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

10-104. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

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

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of commissioners. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of commissioners.

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

10-107. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. Violation and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-115) or other applicable law.

10-202. 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.

10-203. Running at large prohibited.¹ 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.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-204. 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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

¹State law reference
Tennessee Code Annotated, §§ 68-8-107.

10-205. 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.

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

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

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar (\$25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.¹

¹State law reference

Tennessee Code Annotated, § 44-17-501, et seq., "The Tennessee Spay/Neuter Law," prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or neutered it must collect a twenty-five dollar (\$25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the law or return the animal.

An agency may not spay or neuter a dog or cat that is returned to
(continued...)

10-208. Destruction of vicious or infected dogs running at large.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.

10-209. Violation and penalty.

Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹(...continued)

its original owner within seven (7) days of its being taken into custody by the agency.

TITLE 11**MUNICIPAL OFFENSES¹****CHAPTER**

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

CHAPTER 1**ALCOHOL²****SECTION**

- 11-101. Drinking alcoholic beverages in public, etc.
11-102. Minors in beer places.
11-103. Public intoxication.
11-104. Violations and penalty.

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place.

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

¹Municipal code references

Animal control: title 10.

Fireworks: title 7.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

11-103. Public intoxication. It shall be a civil offense for any person to be, or to become or remain in a state of intoxication so as to become a nuisance within the corporate limits of the city. (Ord. #19, March 1952)

11-104. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

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

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

11-303. Violation and penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11-303. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

- 11-401. Air rifles, etc.
11-402. Discharge of firearms.
11-403. Violation and penalty.

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

11-402. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits.

11-403. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 5

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Trespassing.

11-502. Interference with traffic.

11-503. Violation and penalty.

11-501. Trespassing. (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹

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

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

11-503. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

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

11-601. Caves, wells, cisterns, etc.

11-602. Posting notices, etc.

11-601. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

11-602. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. Each posting of such unauthorized notice shall constitute a separate offense.

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.

CHAPTER 1

BUILDING CODE

SECTION

12-101. International building code adopted.

12-102. Modifications

12-103. Available in recorder's office.

12-104. Violations and penalty.

12-101. International building code adopted. A certain document, one (1) copy of which is on file in the office of the City Clerk of Ducktown, being marked and designated as the International Building Code,¹ 2009 edition, as published by the International Code Council, be and is hereby adopted as the building code of the City of Ducktown, in the State of Tennessee for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the City of Ducktown are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter. (as added by Ord. #61, June 2008, and replaced by Ord. #72, March 2012)

12-102. Modifications. (1) Definitions. Whenever in the international building code when reference is made to the duties of a certain official named therein, that designated official of the City of Ducktown 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 the international building code.

¹Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(2) Schedule of permit fees.

TOTAL VALUATION	FEE
\$1,000.00 and less	No fee, unless inspection or plan review required, in which case a \$75.00 fee for each inspection or plan review shall be charged.
\$1,000.00 to \$50,000.00	The greater of: a. \$15.00 for the first \$1,000.00, plus \$5.00 for each additional \$1,000.00 or fraction thereof; or b. \$75.00 for each inspection or plan review performed.
\$50,000.00 to \$100,000.00	\$260.00 for the first \$50,000.00, plus \$4.00 for each additional \$1,000.00 or fraction thereof; plus \$75.00 for each inspection or plan review performed in excess of three.
\$100,000.00 to \$500,000.00	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof, plus \$75.00 for each inspection or plan review performed in excess of six.
Over \$500,000.00	\$1,660.00 for the first \$500,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof, plus \$75.00 for each inspection performed in excess of ten.

Moving fee. For the moving of any building or structure, the fee shall be \$100.00.

Demolition fee. For the demolition of any building or structure. the fee shall be:

0 to 100,000 cu. ft.	\$50.00
Over 100,000 cu. ft.	\$.50/1,000 cu. ft.

Penalties. Where work for which a permit is required is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor any other penalties prescribed herein. (as added by Ord. #61, June 2008, and amended by Ord. #61 amended, Jan. 2009)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the international building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #61, June 2008)

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the international building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #61, June 2008)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKED MOTOR VEHICLES.
4. APPEALS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, 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.

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

13-103. 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 city recorder to cut such vegetation when it has reached a height of over one (1) foot.

¹Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

13-104. Overgrown and dirty lots.¹ 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. 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 Ducktown 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

¹Municipal code reference

Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in city court.

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 Polk County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

5. Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

6. Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

7. Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (4) above may seek judicial review of

the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

8. Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city manager and dispose of such animal in such manner as the city manager shall direct.

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

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of commissioners charged with governing the city.

(3) "Municipality" shall mean the City of Ducktown, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the mayor of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the mayor.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in court of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

(1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, 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 collected by the municipal tax collector or county trustee 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 as set forth in Tennessee Code Annotated, §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said 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. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Polk County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Ducktown to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Ducktown. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Polk County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit,

issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

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

CHAPTER 3

JUNKED MOTOR VEHICLES

SECTION

- 13-301. Definitions.
- 13-302. Violations a civil offense.
- 13-303. Exceptions.
- 13-304. Enforcement.
- 13-305. Penalty for violations.

13-301. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

9. "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

10. "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

11. "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

12. a. "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

b. "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

i. Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

ii. Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

iii. Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

iv. Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

v. Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

vi. Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

vii. Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

viii. General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

13-302. Violations a civil offense. It shall be unlawful and a civil offense for any person:

1. To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

2. To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

3. To park, store, keep, maintain on private property a junk vehicle for more than sixty (60) days.

13-303. Exceptions. It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

1. The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

2. The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

3. No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.

13-304. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may (1) request the city judge to issue a summons, or (2) request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

13-305. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

CHAPTER 4

APPEALS

SECTION

13-401. Board of adjustments and appeals for new construction.

13-402. Board of adjustments and appeals for property maintenance.

13-403. Means of appeal-board of adjustments and appeals for new construction.

13-404. Appeal board designations.

13-401. Board of adjustments and appeals for new construction.

There is hereby created the following appeals board: City of Ducktown Board of Adjustments and Appeals for New Construction. The board shall consist of a minimum of three (3) members who are qualified by experience and training to pass on matters pertaining to building construction, maintenance and safety who are not employees of the city. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the Ducktown City Commission, and shall serve staggered and overlapping terms.

The board of adjustments and appeals for new construction shall annually select one (1) of its members to serve as chairman. A member shall not hear an appeal in which that member has a personal, professional or financial interest. The mayor shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the mayor. Compensation of members shall be determined by law. (as added by Ord. #78, June 2013)

13-402. Board of adjustments and appeals for property maintenance. There is hereby created the following appeal board: City of Ducktown Board of Adjustments and Appeals for Property Maintenance. The Ducktown City Commission shall appoint a three (3) member board of adjustments and appeals for property maintenance.

The board shall consist of a minimum of three (3) members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the city. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the city commission and shall serve staggered and overlapping terms. The board of adjustments and appeals for property maintenance shall annually select one (1) of its members to serve as chairman.

A member shall not hear an appeal in which that member has a personal professional or financial interest.

The mayor shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office

of the city mayor. Compensation of members shall be determined by law. (as added by Ord. #78, June 2013)

13-403. Means of appeal-board of adjustments and appeals for new construction. (1) Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under the city building codes shall have the right to appeal to the board of adjustments and appeals for new construction, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of the code are adequately satisfied by other means, or that the strict application of any requirement of the code would cause an undue hardship.

(2) Notice of meeting. The board shall meet upon notice from the chairman, within twenty (20) days of the filing of an appeal, or at stated periodic meetings.

(3) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the board membership.

(4) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(5) Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

(6) Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

(7) Administration. The code official shall take immediate action in accordance with the decision of the board.

(8) Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the mayor.

(9) Stays of enforcement. Appeals of notice and order (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board. (as added by Ord. #78, June 2013)

13-404. Appeal board designations. The board of adjustments and appeals for new construction is hereby designated as the board of adjustments and appeals for the following codes:

- 2009 International Building Code

The board of adjustments and appeals for property maintenance is hereby designated as the board of adjustments and appeals for the following codes:

International Property Maintenance Code.
Title 13 of the municipal code.

Members can serve on both of these appeals boards created in this chapter. (as added by Ord. #78, June 2013)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. MOBILE HOME PARKS.
3. CITY OF DUCKTOWN ZONING ORDINANCE 2010.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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

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

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.

14-103. Additional powers.¹ Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions.

¹State law reference

To make this section effective the municipality should request the state department of economic and community development, under authority granted by Tennessee Code Annotated, § 13-3-102 to designate the municipal planning commission as a regional planning commission.

CHAPTER 2

MOBILE HOME PARKS

SECTION

- 14-201. Definitions.
- 14-202. Location of mobile homes.
- 14-203. Compliance with construction standards required.
- 14-204. Installation requirements.
- 14-205. Permit for mobile home park.
- 14-206. Inspections by city building inspector.
- 14-207. Location and planning.
- 14-208. Minimum size of mobile home park.
- 14-209. Minimum number of spaces.
- 14-210. Minimum mobile home space and spacing of mobile homes.
- 14-211. Water supply.
- 14-212. Sewage disposal.
- 14-213. Refuse.
- 14-214. Electricity.
- 14-215. Streets.
- 14-216. Parking spaces.
- 14-217. Buffer strip.
- 14-218. License for mobile home parks.
- 14-218. License for individual mobile homes.
- 14-220. License fees for mobile home parks.
- 14-221. License fees for individual mobile homes.
- 14-222. Application for license.
- 14-223. Enforcement.
- 14-224. Board of appeals.
- 14-225. Appeals from board of appeals.
- 14-226. Violation and penalty.

14-201. Definitions. (1) "Mobile home." A detached single family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, connection to utilities and the like.

(2) "Mobile home park (trailer court)." The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

(3) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(4) "Health officer." The director of the city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(5) "Permit (license)." The permit required for trailer parks and single mobile homes. Fees charged under the license requirement are for inspection and the administration of this chapter.

14-202. Location of mobile homes. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the city where the mobile home is outside of any designated and licensed mobile home park after December 31, 2007. The use of a single wide mobile home other than as a residential dwelling in a licensed and approved mobile home park is prohibited.

14-203. Compliance with construction standards required. No mobile home shall be used, placed, stored or serviced by utilities within any mobile home park in the city unless it displays the appropriate decal(s) evidencing compliance with the applicable construction standards pursuant to the "Uniform Standards Code for Manufactured Homes," Tennessee Code Annotated, title 68, chapter 126, is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section.

14-204. Installation requirements. Mobile home installations shall comply with the "Tennessee Manufactured Home Installation Act," Tennessee Code Annotated, 68-126-401, et seq.

14-205 Permit for mobile home park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building inspector in the names of such person or persons for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

14-206. Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of

inspecting and investigating conditions relating to the enforcement of this chapter.

14-207. Location and planning. A mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the city planning commission and city building inspector. The city planning commission and building inspector may promulgate regulations for mobile home park location and plan approval, which shall provide for adequate space, lighting, drainage, sanitary facilities, safety features, and service buildings as may be necessary to protect the public health, prevent nuisances, and provide for the convenience and welfare of the mobile home park occupants.

14-208. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.

14-209. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is ten (10).

14-210 . Minimum mobile homes space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch¹, and at least ten (10) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and twenty-five (25) feet from the right-of-way of any public street or highway.

The individual plot sizes for mobile home spaces shall be determined as follows:

- (1) Minimum lot area of two thousand four hundred (2,400) square feet;
- (2) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty (30) feet;
- (3) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen (15) feet; and

¹If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile homes spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

(4) In no case shall the minimum width be less than forty (40) feet and the minimum depth less than sixty (60) feet.

14-211. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the trailer court operator to provide such treatment as is deemed necessary to maintain a safe, potable water supply. Water shall be furnished at the minimum rate of one hundred twenty-five (125) gallons per day per mobile home space. An additional water service connection shall be provided for each mobile home space, with meter for each individual trailer.

14-212. Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home a such single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate should be determined as outlined in Appendix A of the Tennessee Department of Health Bulletin, entitled "Recommended Construction of Large Septic Tank Disposal Systems for Schools, Factories and Institutions". (This bulletin is available on request from the Department.) No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

14-213. Refuse. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

14-214. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code, 2002 edition, and shall satisfy all requirements of the local electric service organization.

14-215. Streets. Widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	11 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both side	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

Streets shall have a compacted gravel base and a prime seal treatment to meet requirement of the Tennessee State Highway Department.

14-216. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home space. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

14-217. Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home court that are adjacent to development.

14-218. License for mobile home parks. It shall be unlawful for any person or persons to maintain or operate within the corporate limits of the city, a mobile home park unless such person or persons shall first obtain a license therefor.

14-219. License for individual mobile homes. It shall be unlawful for any person to maintain an individual mobile home as a dwelling unless a license has been obtained therefor. It shall be the responsibility of the owner of the mobile home to secure the license.

14-220. License fees for mobile home parks. The annual license fee for mobile home parks shall be twenty-five (25) dollars.

14-221. License fees for individual mobile homes. The annual license fee for each mobile home shall be ten (10) dollars. The fee for transfer of the license because of change of ownership or occupancy shall be five (5) dollars.

14-222. Application for license. (1) Mobile home parks. Application for a mobile home park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the mobile home park plan. Application shall be in writing and signed by the applicant and shall be accompanied with a plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
- (b) Name and address of owner of record;
- (c) Proposed name of park;
- (d) North point and graphic scale and date;
- (e) Vicinity map showing location and acreage of mobile home park;
- (f) Exact boundary lines of the tract by bearing and distance;
- (g) Names of owners of record of adjoining land;
- (h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
- (j) Provisions for water supply, sewerage and drainage;
- (k) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements; and

(l) The applications and all accompanying plans and specifications shall be filed in triplicate.

(2) Individual mobile homes. Application for individual mobile home licenses shall be filed with and issued by the city building inspector. Applications shall be in writing and signed by the applicant. The application shall contain the following:

- (a) The name of the applicant and all people who are to reside in the mobile home;
- (b) The location and description of the mobile home, make, model, and year;
- (c) The state license number;
- (d) Further information as may be required by the city to enable it to determine if the mobile home and site will comply with legal requirements; and
- (e) The application shall be filed in triplicate.

14-223. Enforcement. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter.

14-224. Board of appeals. The planning commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the planning commission for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the planning commission may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

14-225. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the planning commission may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee.

14-226. Violation and penalty. Any person or corporation who violates the provisions of the chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer after receipt of thirty (30) days written notice of such requirements, shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

CITY OF DUCKTOWN ZONING ORDINANCE 2010¹

CHAPTER 1 INTRODUCTION

Section

01.01. Authority.

01.02. Title.

01.03. Purpose.

01.04. Enactment Clause.

01.01. Authority.

An ordinance, pursuant to the authority granted in Section 13-7-201 through 13-7-210 of Tennessee Code Annotated, to regulate in the City of Ducktown, Tennessee, the location, height and size of buildings and other structures; the percentage of lot which may be occupied; the size of yards, courts, and other open spaces; the density and distribution of population; the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes. Special districts or zones may be established in those areas deemed subject to seasonal or periodic flooding, and such regulations may be applied therein as will minimize danger to life and property, and as will secure to the citizens of Tennessee the eligibility for flood insurance under Public Law 1016, 84th Congress, or subsequent related laws or regulations promulgated thereunder.

01.02. Title.

This ordinance shall be known as the **Zoning Ordinance of the City of Ducktown, Tennessee**. The zoning map shall be referred to as the **Official Zoning Map of the City of Ducktown, Tennessee**.

01.03. Purpose.

The zoning regulations and districts set forth herein have been made in accordance with a policy plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the City of Ducktown. They have been designed to lessen congestion in the streets; to secure safety from fires, floods, panic, and other dangers; to provide adequate

¹The City of Ducktown Zoning Ordinance 2010 (Ord. # 67, Feb. 2011) has been added in its original format for ease of use by the city and for future revisions.

light and air; to prevent the overcrowding of land; to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, waste water treatment, schools, parks, and other public requirements. These regulations have been made with reasonable consideration to the character of each district and its peculiar uses, and with the intent of conserving property values and encouraging the most appropriate use of land within the City of Ducktown, Tennessee.

01.04. Enactment Clause.

Except as hereinafter provided, no building shall be erected or structurally altered, nor shall any building or premises be utilized for any purpose, other than permitted in the zoning district in which the building or premises is located. No land or lot area shall be reduced or diminished so that the yards or open spaces shall be smaller than prescribed herein, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations hereby established for the district in which such building is located. (as added by Ord. #67, Feb. 2011)

**CHAPTER 2
DEFINITIONS**

Section

02.01. Scope.

02.02. Definitions.

02.01. Scope.

In order to carry out the provisions and intent of this ordinance, certain words, terms, and phrases are to be used and interpreted as defined herein. Words used in the present tense shall include the future tense; words used in the singular number include the plural, and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

02.02. Definitions.

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them:

Abutting. Having a common border with, or being separated from, such common border by an alley or easement.

Access. The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

Accessory Building. A subordinate building, the use of which is incidental to that of a main building and located on the same lot therewith.

Accessory Facility. The permanent building(s) customarily necessary to support operations of the permanent, principal building, including garages, platforms and docks, maintenance and storage facilities, and other similar structures.

Accessory Use. A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

Addition (to an existing building). Means a walled and roofed expansion to the perimeter of a building in which the addition is connected by common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Advertising. Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used, or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures or on buildings, structures, signboards, billboards, fences, or other man-made structure.

Alley. A public or legally established thoroughfare, other than a street, which affords a secondary means of access to abutting property.

Apartment. A dwelling unit contained in a building comprised of more than two (2) dwelling units, each of which has an entrance to a hallway or balcony in common with at least one (1) other dwelling unit. (In the central business district an apartment may be a single dwelling unit attached to an existing business.)

Appeal. A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this ordinance.

Approved. Means acceptable to the appropriate authority having jurisdiction.

Area, Building. The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

Automobile Wrecking. The dismantling, storage, sale, or dumping of used motor vehicles, trailers, or parts thereof.

Automobile Wrecking, Junk, and Salvage Yards. Any lot or place which is exposed to the weather and upon which more than three (3) motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

Basement. A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half ($\frac{1}{2}$) of its height is above the average ground elevation. When used for commercial activities, a basement shall be counted as a story.

DBZA. Ducktown Board of Zoning Appeals.

Bed and Breakfast. Refer to Chapter 10, Section 10.13 STANDARDS FOR A BED AND BREAKFAST.

Buffer Strip (planted evergreen). A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet.

Building Code. Unless otherwise designated, this term shall mean the International Building Code and its amendments.

Building Inspector. The Zoning and Codes Enforcement Officer or his authorized representative appointed by the Ducktown Board of Mayor and Commissioners having jurisdiction over the City for the enforcement of zoning compliance and other local developmental regulations, including this ordinance.

Building, Main or Principal. A building in which is conducted the principal use of the lot on which it is situated.

Building Setback Line. A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

Child Care Facilities:

Child Care Center. A place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least thirteen (13) children who are not related to the primary caregiver;

provided, that a child care agency shall not be classified as a "child care center" that operates as a "group child care home" and keeps three (3) additional school-age children as permitted in subdivision (10); provided, further, that all children, related or unrelated shall be counted in the adult-to-child supervision ratios and group sizes applicable to child care centers; with the exception, that if the child care center is operated in the occupied residence of the primary caregiver, children nine (9) years of age or older who are related to the primary caregiver will not be counted in determining the adult-to-child supervision ratios or group sizes applicable to child care centers if such children are provided a separate space from that occupied by the child care center. The Department of Human Services may permit children in the separate space to interact with the children in the licensed child care center in such manner as it may determine is appropriate.

Drop-in Center. A place or facility operated by any person or entity providing child care, at the same time, for fifteen (15) or more children, who are not related to the primary caregiver, for short periods of time, not to exceed ten (10) hours per week and for not more than six (6) hours per day for any individual child, while the parents or other custodians of the children are engaged in short-term activities that do not include employment of the parent or other custodian of the child; provided, however, that, notwithstanding any other requirements of this part, training requirements for the staff of this class of child care agency shall be limited to basic health and safety precautions and the detection and reporting of child abuse and neglect for children in care; provided, further, that, notwithstanding any other provision of this chapter to the contrary, drop-in centers operated by not-for-profit organizations that provide child care for no more than two (2) hours per day with a maximum of ten (10) hours per week without compensation, while the parent or other custodian is engaged in short-term activities on the premises of the organization, shall register as provided casual care and shall not be deemed to be a drop-in center or regulated as a drop-in center.

Family Child Care Home. Any place or facility which is operated by any person or entity that provides child care for three (3) or more hours per day for at least five (5) children but not more than seven (7) children who are not related to the primary caregiver; provided that the maximum number of children present in the family child care home, including related children of the primary caregiver, shall not exceed twelve (12), with the exception that, if the family child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in

determining the maximum number of children permitted to be present in a "family child care home" if those children are provided a separate space from that occupied by the family child care home. The Department of Human Services may permit children in the separate space to interact with the children in the licensed family child care home in such manner as it may be determined is appropriate.

Group Child Care Home. Any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least eight (8) children who are not related to the primary caregiver; provided, however, that the maximum number of children present in a group child care home, including those related to the primary caregiver, shall not exceed twelve (12) children, with the exception that, if the group child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a group child care home, if those children are provided a separate space from that occupied by the group child care home; and, provided further, that up to three (3) additional school age children, related or unrelated to the primary caregiver, may be received for child care before and after school, on school holidays, on school snow days and during summer vacation. The Department of Human Services may permit children in the separate space to interact with the children in the licensed group child care home in such manner as it may determine is appropriate.

Customary Home Occupation. (See Section 10.01. for an explanation of Customary Home Occupations.)

Dedication. The transfer of property interests from private to public ownership for a public purpose.

Developer. The legal or beneficial owner(s) of a lot, parcel of any land, or someone having a proprietary interest in a development with purpose for proceeding, including the holder of an option or contract to purchase.

Development. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing; grading, or other movement of land, for which permission may be required pursuant to this ordinance.

Diagonal Tie (mobile home). Any tie down designated to resist horizontal forces and which does not deviate less than 30 degrees from a vertical direction.

District. Any section or sections of Ducktown, Tennessee, for which the regulations governing the use of land and the use density, bulk, height, and coverage of buildings and other structures are uniform.

Drainage. The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water-supply preservation or prevention or alleviation of flooding.

Dwelling. A building or portion thereof used for residential purposes.

Dwelling, Single Family. A detached building designed to be occupied exclusively by one family.

Dwelling Unit. One or more rooms and a single kitchen designed as a unit for occupancy by only one family for cooking, living, and sleeping purposes.

Easement. Authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

Electric Feeder (mobile home). That part of the electric distribution system between the transformer and the electrical connections of a mobile home.

Erosion. The detachment and movement of soil or rock fragments by water, wind, ice, and/or gravity.

Factory Built Housing. A factory built structure designed for long term residential use. For the purpose of these regulations, factory built housing consists of three types: modular homes, mobile homes and manufactured homes.

Family. Two or more persons related by blood, marriage, or adoption, or not more than four persons not related by blood, marriage or adoption occupying a residential dwelling unit.

Filling. The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials of any composition whatsoever.

Floor Area. The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure.

Grade, Finished. The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

Ground Anchor. Any device at a mobile home stand designed for the purpose of securing a mobile home to the ground.

Health Department. The Polk County Office of the Tennessee Department of Health and Environment.

Height of Building. The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. 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;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Hotel/Motel. Every building or structure or enclosure or any part thereof kept, used as, maintained as, advertised as, intended for, or held out to the public as a place where sleeping accommodations are furnished - whether with or without meals - to transient guests (in contrast to a boarding, rooming, lodging, or apartment house) shall for the purpose of this ordinance be deemed a hotel and provide the customary hotel services such as maid and linen service, telephone and secretarial or desk service.

Junk Yard or Salvage Yard. A lot, land or structure, or part thereof, used primarily for the collection, storage and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storing and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

Loading Space. A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of a vehicle.

Lot. A piece, parcel, or plot of land in one ownership, occupied or to be occupied by one principal building and its accessory buildings including the open spaces required under this ordinance.

Lot Area. The total surface area land included within lot lines.

Lot Depth. The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

Lot Frontage. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot, Interior. A lot other than a corner lot.

Lot, Lines. The boundary dividing a given lot from the street, an alley, or adjacent lots.

Lot of Record. A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the date of passage of the *Ducktown Subdivision Regulations*.

Lot Width. The width of a lot at the building setback line measured at right angles to the centerline of its depth.

Manufactured Home. A structure, transportable in one (1) or more sections, which in traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. For the purpose of these regulations, the term "manufactured home" does not include "mobile homes" as herein defined. A manufactured home having the same general appearance as a site built home shall be allowed on individual lots in any residential district

provided the conditions of section 10.12 Standards for the Appearance of Manufactured Homes.

Medical Facilities:

Convalescent, Rest, or Nursing Home. A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

Dental Clinic or Medical Clinic. A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are not kept overnight except under emergency conditions.

Dental Office or Doctor's Office. Same as dental or medical clinics.

Hospital. An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, and staff offices which are an integral part of the facility.

Public Health Center. A facility primarily utilized by a health unit for the provision of public health services.

Mini-warehouse/Mini-storage. A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the dead storage of a customer's goods or wares. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises.

Mobile Home (trailer/single-wide). A detached single-family dwelling unit, which is constructed as a single self-contained unit and mounted on a single chassis designed to be used with or without a permanent foundation and has any or all of the following characteristics:

1. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
2. Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer or detachable wheels.
3. Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except

for minor and incidental unpacking and assembly operations, locations of foundation supports, connection to utilities and the like.

Modular Home. A residential dwelling which is a structural unit or pre-assembled component unit including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off site and transported to the point of use for installation or erection, with or without other specified components, is a finished building and not designed for ready removal to another site.

Multifamily Residential Establishment. A residential dwelling which contains more than one dwelling unit and houses multiple families as defined by the Ducktown Municipal Zoning Ordinance.

Nonconforming Use. A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is situated, (See Section 11.02. for further explanation of non-conforming use.)

Noxious Matter. Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, chemical reactions, or detrimental effects on the social, economic, or psychological well-being of individuals.

Open Space. An area on the same lot with a main building which is open, unoccupied, and unobstructed by structures from the ground to the sky except as otherwise provided in this ordinance. Open space lines shall coincide with or be parallel to the building setback lines on the same lot.

Owner. The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

Parking Lot. An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for entrance and exit, designed so as to be usable.

Parking Space. An off-street space available for parking one motor vehicle and having an area of not less than two-hundred (200) square feet (10' X 20') exclusive of passageways and driveways giving access thereto, and having direct access to a street or alley.

Planning Commission. The Ducktown Municipal Planning Commission (DMPC).

Plat. A map or plan of an area indicating the location and boundaries of individual properties.

Principal Use. The specific primary purpose for which land or a building is used.

Public Improvement. Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

Public Uses. Public parks, schools, and administrative, cultural, and service buildings not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

Recreation, Active. Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields.

Recreation, Passive. Any leisure time activity not considered active.

Recreational Vehicle. A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towed by a light duty truck; and; designed primarily for temporary living quarters for recreational - seasonal use.

Recreational Vehicle Park. A lot on which campsites are established for occupancy by recreational vehicles of the general public as temporary living quarters for purposes of recreation or vacation.

Restaurant. An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state including; fast-food establishments; food and beverages served by a restaurant employee at the same table or counter at which food and beverages are consumed; cafeteria-type operations and; food prepared for off-premises delivery.

Right-of-Way. The strip of land over which a public road is built.

Sanitary Sewer. A municipal or community sewerage collection, treatment, and disposal system of a type approved by the Health Department.

Side Yard. An open, unoccupied space on the same lot with a principal building located between the side of the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Sign, Billboard, or Other Advertising Device. Any structure or part thereof or device attached thereto or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" does not include the flag, pennant, or insignia of any nation, state, City, or other political unit.

Site Plan. This shall be the document, the contents of which are outlined within this ordinance representative of the physical design of a commercial site or mobile home park.

Subdivision Regulations. This term shall refer to the subdivision regulations adopted by and in force within the City.

Special Exception (Use Permitted on Appeal). Any use which is specifically permitted if the owner can demonstrate to the satisfaction of the BBZA, that he will meet certain enumerated safeguards or qualifying conditions.

Standard Industrial Classification (SIC). This is the statistical classification standard underlying all established-based Federal economic statistics classified by industry. The SIC is used to promote the comparability of establishment data describing various facets of the U.S. economy. The classification covers the entire field of economic activities and defines industries in accordance with the composition and structure of the economy. The current version was published in 1987 and is revised periodically. SIC codes are as follows: A two digit number refers to a Major Group, a three digit number refers to an Industry Group No., and a four digit number refers to the Industry No.

Storm; Sewers. A municipal or community collection and disposal system for the control of storm water drainage.

Story. The portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building included between the topmost floor and the roof which is used for human occupancy or in which the floor area with eight (8) feet or more head clearance equals fifty (50) percent or more of floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than (50) percent of the floor area of the story next below shall be a "half-story." A basement shall be considered a story if more than half of its height is above the average ground level from

which the "height of building" is measured, or if it is used for commercial purposes.

Street. Any public or private thoroughfare which affords the principal means of access to abutting property.

Structure. Means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities of infrastructures.

Tie Down. Any device designed for the purpose of attaching a mobile home to ground anchors.

Toxic Material. Materials (gaseous, liquid, solid, particulate, or any other form) which are capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

Travel Trailer. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty square feet (220 sq. ft.), excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

Travel Trailer Park. Any plot of ground within the City of Ducktown on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

Usable Floor Space. Floor space used for retail sale or display; includes permanent outdoor sales, but excludes outdoor motor vehicle sales areas.

Use. The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

Use, Temporary. A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

Variance. Permission to depart from the literal requirements of this ordinance.

Yard, Front. The required open space, unoccupied by buildings between the road or street right-of-way line and the principal building.

Yard, Rear. The required space, unoccupied except by a building of accessory use as herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

Yard, Side. The required space unoccupied except as herein provided measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard.

Zoning Ordinance. This term shall mean the Zoning Ordinance adopted by and in force within the City. (as added by Ord. #67, Feb. 2011)

**CHAPTER 3
ZONING DISTRICTS**

Section

- 03.01. Classification of Districts.
- 03.02. Zoning District Map.
- 03.03. Zoning District Boundaries.

03.01. Classification of Districts.

For the purpose of this ordinance, the following zoning districts are hereby established in the City of Ducktown, Tennessee:

<u>District Abbreviation</u>	<u>Zoning District</u>
R-1	LOW DENSITY RESIDENTIAL ZONING DISTRICT
R-2	MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT
R-3	HIGH DENSITY RESIDENTIAL ZONING DISTRICT
C-1	CENTRAL BUSINESS ZONING DISTRICT
C-2	HIGHWAY COMMERCIAL ZONING DISTRICT
I-1	INDUSTRIAL ZONING DISTRICT

03.02. Zoning District Map.

The location and boundaries of the zoning districts, established by this ordinance, are shown on the map entitled ***Official Zoning Map of Ducktown, Tennessee***. The zoning map shall be dated with the effective date of the ordinance that adopts the zoning map. Certified copies of the adopted zoning map and all zoning map amendments shall be maintained in the City Hall of the City of Ducktown and shall be available for inspection by the public at all reasonable times.

03.03. Zoning District Boundaries.

Unless otherwise indicated on the zoning map and zoning map amendments, the district boundaries are lot lines, center-lines of streets or alleys, or the City of

Ducktown City limits as they exist at the time of the enactment of this zoning ordinance. Questions concerning the exact locations of district boundaries shall be determined by the Ducktown Board of Zoning Appeals.

Where the property on one side of a street between two intersecting streets is in a business or industrial district and the property on the intersecting street is in a residential district, the business or industrial use shall be limited to the property facing the street zoned for business and any property in the rear which faces the intersecting street shall be governed by the use prevailing on the intersecting street. In all cases of ambiguity due to the actual layout of the property or other circumstances, the Board of Zoning Appeals shall have authority to determine on which street the business or industrial use shall face so the spirit of the ordinance shall be observed. (as added by Ord. #67, Feb. 2011)

CHAPTER 4

R-1 LOW DENSITY RESIDENTIAL DISTRICT

Section

- 04.01. District Description.
- 04.02. Uses Permitted.
- 04.03. Uses Permitted on Appeal.
- 04.04. Uses Prohibited.
- 04.05. Dimensional Regulations.
- 04.06. Off-Street Parking Space Requirements.
- 04.07. Access Control Requirements.
- 04.08. Signage Requirements.
- 04.09. Site Plan Review Requirements.
- 04.10. Off-Street Loading and Unloading Requirements.

04.01. District Description.

This residential district is intended to be used for single family residential areas with relatively low population densities. Additional permitted uses include uses and facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses that are incompatible to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

04.02. Uses Permitted.

In the R-1 Low Density Residential District, the following uses and their accessory uses are permitted.

1. Single family dwellings, but **not including** mobile home (trailer/single-wide).

04.03. Uses Permitted on Appeal.

In the R-I Low Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval of the Board of Zoning Appeals in accordance with the provisions of Section 12.06

1. Passive recreational facilities.
2. Customary home occupations as regulated in Section 10.01.
3. The following uses and their accessory uses may be permitted provided that there is a planted evergreen buffer strip and the buildings are located not less than thirty-five (35) feet from any property line:
 - a. Public schools, colleges, and other public educational institutions.
 - b. Churches or similar places of worship, but **not including** temporary missions or revival tents.
4. Bed and Breakfast. (Refer to Chapter 10, Section 10.13 Standards for a Bed and Breakfast).

04.04. Uses Prohibited.

In the R-1 Low Density Residential District, all uses except those uses or their accessory uses specifically permitted or permitted upon appeal by the Ducktown Board of Zoning Appeal are prohibited.

04.05. Dimensional Regulations.

All uses permitted in the R-1 Low Density Residential District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** The minimum building setback line for the front yard shall be twenty-five (25) feet, except as provided in Section 11.05.
2. **Rear Yard:** The minimum depth of the rear yard shall be twenty (20) feet for the principal structure and five (5) feet for any permitted accessory structure.
3. **Side Yard:** The side yard shall be a minimum of fifteen (15) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.

- a. If the side yard abuts an alley, the side yard setback shall be ten (10) feet.
 - b. If the side yard abuts a local street, the side yard setback shall be twenty (20) feet.
4. **Land Area:** No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 10,000 square feet in area. However, where there is an existing lot of record of less than 10,000 square feet, at the time of adoption of this ordinance, this lot may be utilized for the construction of one single-family dwelling, providing the lot in question has a public water supply and sanitary sewer service and providing that said lot of record is not less than 5,000 square feet in area.
 5. **Lot Width:** No lot shall be less than 50 feet wide at the building setback line.
 6. **Height Requirement:** No building shall exceed forty (40) feet in height except as provided in Section 11.03.

04.06. Off-Street Parking Space Requirements.

As regulated in Section 10.02.

04.07. Access Control Requirements.

As regulated in Section 10.03.

04.08. Signage Requirements.

As regulated in Section 10.04.

04.09. Site Plan Review Requirements.

As regulated in Section 10.05.

04.10. Off-Street Loading and Unloading Requirements.

As regulated in Section 10.06. (as added by Ord. #67, Feb. 2011)

**CHAPTER 5
R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT**

Section

- 05.01. District Description.
- 05.02. Uses Permitted.
- 05.03. Uses Permitted on Appeal.
- 05.04. Uses Prohibited.
- 05.05. Dimensional Regulations.

- 05.06. Off-Street Parking Space Requirements.
- 05.07. Access Control Requirements.
- 05.08. Signage Requirements.
- 05.09. Site Plan Review Requirements.
- 05.10. Off-Street Loading and Unloading Requirements.

05.01. District Description.

This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residences in areas which by location and character are appropriate for occupancy by medium density, single-family and multifamily dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for occupants and adequate space for all related facilities.

05.02. Uses Permitted.

In the R-2 Medium Density Residential District, the following uses and their accessory uses are permitted:

1. All uses permitted in Section 04.02. R-1 Low Density Residential District.
2. Two-family dwellings (Duplexes).
3. Bed and Breakfast. (Refer to Chapter 10, Section 10.13 Standards for a Bed and Breakfast).

05.03. Uses Permitted on Appeal.

In the R-2 Medium Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval by the Ducktown Municipal Board of Zoning Appeals in accordance with the provisions of Section 12.06.

1. Passive recreational facilities.
2. Three (3) and four (4) unit apartment buildings on individual lots.
3. Customary home occupations as provided in Section 10.01.
4. The following uses and their accessory uses may be permitted provided that there is a planted evergreen buffer strip and the buildings are located not less than thirty-five (35) feet from any property line:

- a. Public schools, colleges, and other public educational institutions.
- b. Churches or similar places of worship, but not including temporary missions or revival tents.

05.04. Uses Prohibited.

In the R-2 Medium Density Residential District all uses, except those uses or their accessory uses specifically permitted or permitted upon appeal by the Ducktown Board of Zoning Appeals are prohibited.

05.05. Dimensional Regulations.

All uses permitted in the R-2 Medium Density Residential District shall comply with the following requirements except as provided in Chapter 11.

- 1. **Front Yard:** The minimum building setback line for the front yard shall be twenty-five (25) feet, except as provided in Section 11.05.
- 2. **Rear Yard:** The minimum depth of the rear yard shall be fifteen (15) feet for the principal structure and five (5) feet for any permitted accessory structure.
- 3. **Side Yard:** The side yard shall be a minimum often (10) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.
 - a. If the side yard abuts an alley, the side yard setback shall be ten (10) feet.
 - b. If the side yard abuts a local street, the side yard setback shall be twenty (20) feet.
- 4. **Land Area:** No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 7,500 square feet in area. However, where there is an existing lot of record of less than 7,500 square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of only one (1) single-family dwelling, providing the lot in question has a public water supply and sanitary sewer service, and providing that said lot of record is not less than 5,000 square feet in area.

On lots or parcels of land where multiple-family dwellings are constructed, the following area requirements shall apply:

For lots on Sewer

- 1) Two dwelling units 15,000 sq. ft.
- 2) For each additional Unit add 5,000 sq. ft.

For lots on Septic

- 1) Two dwelling units 20,000 sq. ft.
- 2) For each additional Unit add 5,000 sq. ft.

- 5. **Lot Width:** Minimum lot width shall be measured from the building setback line and shall be no less than the following:
 - 1) Single family 50 ft.
 - 2) Two family 75 ft.
 - 3) Three family or greater 100 ft.

- 6. **Height Requirement:** No building shall exceed forty (40) feet, except as provided in Section 11.03.

05.06. Off-Street Parking Space Requirements.

As regulated in Section 10.02.

05.07. Access Control Requirements.

As regulated in Section 10 .03.

05.08. Signage Requirements.

As regulated in Section 10.04.

05.09. Site Plan Review Requirements.

As regulated in Section 10.05.

05.10. Off-Street Loading and Unloading Requirements.

As regulated in Section 10.06. (as added by Ord. #67, Feb. 2011)

**CHAPTER 6
R-3 HIGH DENSITY RESIDENTIAL DISTRICT**

Section

- 06.01. District Description.
- 06.02. Uses Permitted.
- 06.03. Uses Permitted on Appeal.
- 06.04. Uses Prohibited.
- 06.05. Dimensional Regulations.
- 06.06. Off-Street Parking Space Requirements.
- 06.07. Access Control Requirements.
- 06.08. Signage Requirements.
- 06.09. Site Plan Review Requirements.
- 06.10. Off-Street Loading and Unloading Requirements.

06.01. District Description.

This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residences in areas which by location and character are appropriate for occupancy by high-density, single-family and multiple-family dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for occupants of apartment buildings and adequate space for all related facilities.

06.02. Uses Permitted.

Within the R-3 Residential District of Ducktown, the following uses shall be permitted:

1. Any use permitted in Section 04.02. R-1 Low Density Residential and Section 05.02. R-2 Medium Density Residential Districts.
2. Multi-family dwellings.
3. Single-wide manufactured homes on individual lots.
4. Bed and Breakfast (refer to Chapter 10, Section 10.13 Standards for a Bed and Breakfast).

06.03. Uses Permitted on Appeal.

In the R-3 High Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval by the Ducktown Board of Zoning Appeals in accordance with the provisions of Section 12.06.

1. Active and Active Recreational facilities.
2. Customary home occupations as provided in Section 10.01.
3. Child Care Centers as defined in Chapter 2.
4. The following uses and their accessory. uses may be permitted provided that there is a planted evergreen buffer strip and the buildings are located not less than thirty-five (35) feet from any property line:
 - a. Public schools, colleges, and other public educational institutions.

- b. Churches or similar places of worship, but not including temporary missions or revival tents.
- c. Lodge halls civic organizations, and private clubs, except a club's chief activity of which is customarily carried on as a business.
- d. Clinics and Nursing Homes.
- e. Funeral parlors.

06.04. Uses Prohibited.

In the R-3 Medium Density Residential District, all uses except those uses or their accessory uses specifically permitted or permitted upon appeal by the Ducktown Board of Zoning Appeal are prohibited.

06.05. Dimensional Regulations.

All uses permitted in the R-3 High Density Residential District shall comply with the following requirements except as provided in Chapter 11.

- 1. **Front Yard:** The minimum building setback line for the front yard shall be twenty-five (25) feet, except as provided in Section 11.05.
- 2. **Rear Yard:** The minimum depth of the rear yard shall be ten (10) feet for the principal structure and five (5) feet for any permitted accessory structure.
- 3. **Side Yard:** The side yard shall be a minimum of ten (10) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.
 - a. If the side yard abuts an alley, the side yard setback shall be ten (10) feet.
 - b. If the side yard abuts a local street, the side yard setback shall be fifteen (15) feet.
- 4. **Land Area:** No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 7,000 square feet in area. However, where there is an existing lot of record of less than 7,000 square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of only one (1) single-family dwelling, providing the lot in question has a public water supply and sanitary sewer service, and providing that said lot of record is not less than 5,000 square feet in area.

On lots or parcels of land where multiple-family dwellings are constructed, the following area requirements shall apply:

For lots on Sewer

- 1) Two dwelling units 10,000 sq. ft.
- 2) For each additional Unit add 5,000 sq. ft.

For lots on Septic

- 1) Two dwelling units 15,000 sq. ft.
- 2) For each additional Unit add 5,000 sq. ft.

5. **Lot Width:** Minimum lot width shall be measured from the building setback line and shall be no less than the following:

- 1) Single family 50 ft.
- 2) Two family 75 ft.
- 3) Three family or greater 100 ft.

6. **Height Requirement:** No building shall exceed forty (40) feet, except as provided in Section 11.03.

06.06. Off-Street Parking Space Requirements.

As regulated in Section 10.02.

06.07. Access Control Requirements.

As regulated in Section 10.03.

06.08. Signage Requirements.

As regulated in Section 10.04.

06.09. Site Plan Review Requirements.

As regulated in Section 10.05.

06.10. Off-Street Loading and Unloading Requirements.

As regulated in Section 10.06. (as added by Ord. #67, Feb. 2011)

**CHAPTER 7
C-1 CENTRAL BUSINESS DISTRICT**

Section

- 07.01. District Description.
- 07.02. Uses Permitted.
- 07.03. Uses Permitted on Appeal.
- 07.04. Uses Prohibited.

- 07.05. Dimensional Regulations.
- 07.06. Off-Street Parking Space Requirements.
- 07.07. Access Control Requirements.
- 07.08. Signage Requirements.
- 07.09. Site Plan Review Requirements.
- 07.10. Off-Street Loading and Unloading Requirements.

07.01. District Description.

This district is established to provide an area for the conduct of community and municipal retail and service businesses of an indoor and intensive nature, especially for those sales and service uses which require a central location, which generate substantial pedestrian traffic, and which are mutually benefitted by close proximity to other uses of similar nature and requirements; and for only those small-scale industrial uses commonly associated with retail, or business, or personal service activities. It is intended that such areas have properties of size suitable for uses of a variety of scale so developed as to promote pedestrian circulation, avoid "dead" spaces between uses, and to contribute to mutual business advantage. It is further intended to exclude those commercial or industrial activities which are characterized by trucking other than stocking and delivery of retail goods, which cater exclusively to automobiles or traffic or to patrons who remain in their vehicles for service.

07.02. Uses Permitted.

The following uses and their accessory uses shall be permitted in the C-1 Central Business District:

1. Newspapers: Publishing or publishing and printing (SIC 2711).
2. U.S. Postal Service (SIC 4311).
3. Travel agencies (SIC 4724).
4. Motor vehicle supplies and new parts (SIC 5013).
5. Hardware stores (SIC 5251).
6. Eating places (SIC 5812).
7. Drug stores (SIC 5912).
8. Antique stores (SIC 5932).
9. Depository institutions (SIC 60).

10. Non-depository institutions (SIC 61).
11. Security and commodity brokers, dealers, exchanges and services (SIC 62).
12. Insurance carriers and agents (SIC 63 and 64).
13. Real estate (SIC 65).
14. Holding offices (SIC 67).
15. Personal services (SIC 72, excluding 7299).
16. Automobile parking (SIC 7521).
17. Health services (SIC 80).
18. Legal services (SIC 81).
19. Civic, social and fraternal associations (SIC 8641).
20. Engineering, accounting, research, management, and related services (SIC 87).
21. Executive, legislative and general government (SIC 91).
22. Justice, public order, and safety (SIC 92).
23. Public finance, taxation, and monetary policy (SIC 93).
24. Administration (SIC 94, 95, 96).
25. Amusement and Recreation Services (SIC 7997, 7999).

07.03. Uses Permitted on Appeal.

In the C-1 Central Business District, the following uses and their accessory uses may be permitted subject to the review and approval by the Duckytown Board of Zoning Appeals in accordance with the provisions in Section 12.06 of this ordinance.

1. Hotels and motels, provided off street parking is provided (SIC 7011), rooming and boarding houses (SIC 7021).
2. Apartments provided the following conditions are met:

- a. Apartments shall be located above the ground floor or in the rear of the building, if a one-story building.
- b. Provide a floor layout to ensure adequate space and separate outside entrance.
- c. No more than two (2) apartments shall be allowed in any one (1) building.
- d. One off-street parking space per apartment shall be provided.
- e. Any apartment to be developed shall not be less than eight hundred fifty (850) square feet in area.
- f. The character of the building as a commercial structure shall not be changed by the addition of a residential use.

A sketch plan and floor layout shall be presented to the Planning Commission to ensure the provisions of (a.) through (f.) above are met. Detailed construction information shall be required to ensure compliance with all pertinent codes of the city. Recommendations shall be provided by the Staff Planner and Building Official prior to the final decision by the Planning Commission.

07.04. Uses Prohibited.

In the C-1 Central Business District, all uses, except those uses specifically permitted or permitted on appeal by the Ducktown Board of Zoning Appeals are prohibited.

07.05. Dimensional Regulations.

All uses permitted in the C-1 Central Business District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** No front yard shall be required in the C-1 Central Business District.
2. **Rear Yard:** Where a commercial building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than thirty (30) feet in depth. The depth of a rear yard which abuts a residential district shall be not less than twenty-five (25) feet. In all other cases, no rear yard shall be required.
3. **Side Yard:** No side yard shall be required except that a ten (10) foot buffer strip shall be required on any side which abuts a residential district.

4. **Land Area:** For areas served by a sanitary sewer system, there shall be a minimum lot area of not less than three thousand five hundred (3,500) square feet.
5. **Lot Width:** Each lot shall have a width of not less than twenty-five (25) feet at the building line. *(Twenty-five feet is the standard lot width in the Central Business District).*
6. **Height Requirement:** No building shall exceed forty (40) feet, except as provided in Section 11.03.
7. **Buffer Strip:** Where a commercial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

07.06. Off-Street Parking Space Requirements.

No requirement for uses permitted by right.

07.07. Access Control Requirements.

As regulated in Section 10.03.

07.08. Signage Requirements.

As regulated in Section 10.04.

07.09. Site Plan Review Requirements.

As regulated in Section 10.05.

07.10. Off-Street Loading and Unloading Requirements.

As regulated in Section 10.06. (as added by Ord. #67, Feb. 2011)

**CHAPTER 8
C-2 HIGHWAY COMMERCIAL ZONING DISTRICT**

Section

- 08.01. District Description.
- 08.02. Uses Permitted.
- 08.03. Uses Permitted on Appeal.
- 08.04. Uses Prohibited.
- 08.05. Dimensional Regulations.
- 08.06. Off-Street Parking Space Requirements.
- 08.07. Access Control Requirements.
- 08.08. Signage Requirements.
- 08.09. Site Plan Review Requirements.
- 08.10. Off-Street Loading and Unloading Requirements.

08.01. District Description.

This district is established to provide areas for those amusement, specialized sales, and travel accommodations, activities which depend on visibility from or proximity to automobiles or traffic, serve travelers, cater to local residents in vehicles, or provide services essential to the movement of vehicles in major ways. It is intended that such areas have properties with lot sizes, yards, performance and development standards sufficient to ensure that activities performed on any one lot will not unduly impede the flow of traffic, will not adversely affect activities of adjoining zones, and will not infringe on the efficiency of activities or customer attractiveness to adjacent lots. It is further intended to exclude those uses which are not necessary for service to traffic.

08.02 Uses Permitted.

In the C-2 Local Highway Commercial District the following uses may be permitted provided that obnoxious fumes, odors, smells, sounds and noises shall be controlled so as not to interfere with adjoining activities or properties.

1. Communications (SIC 48).
2. Building materials, hardware, garden supply (SIC 52, excluding 5271).
3. General merchandise (SIC 53).
4. Food stores (SIC 54).
5. Auto dealers and gas service stations (SIC 55).
6. Apparel and accessory stores (SIC 56).
7. Home furniture, furnishings and equipment stores (SIC 57).
8. Miscellaneous retail (SIC 59, excluding 5921 - liquor stores, and excluding 598 - fuel dealers).
9. Recreational vehicle parks and campsites (SIC 7033).
10. Business services (SIC 73, excluding 7389)
11. Auto repair services and parking (SIC 75, excluding 7534).
12. Miscellaneous repair services (SIC 76, excluding 7699).
13. Video tape rental (SIC 7841 - (excludes sexually oriented adult entertainment-see also adult entertainment ordinance).

14. Physical fitness facilities (SIC 7991).
15. Educational services (SIC 82).
16. Farm and garden machinery and equipment sales.

08.03. Uses Permitted on Appeal.

In the C-2 Local Highway Commercial District, the following uses and their accessory uses may be permitted subject to appeal and approval of the Ducktown Board of Zoning Appeals in accordance with the provisions of Section 12.06.

1. Amusement parks (SIC 7996); amphitheatres, ball parks or stadiums, fairgrounds (SIC 7999), and group picnic grounds.
2. Commercial activities similar to those uses permitted by right will be considered, and if approved must be recommended to the Board of Mayor and Commissioners to amend the use list.

08.04. Uses Prohibited.

All uses, except those uses or their accessory uses specifically permitted or permitted upon appeal by the Ducktown Board of Zoning Appeals are prohibited.

08.05. Dimensional Regulations.

The following requirements shall apply to all uses permitted in this district:

1. **Front Yard:** The depth of the front yard shall be thirty (30) feet from any right-of-way for all structures including secondary structures.
2. **Side Yard:** The width of any side yard which abuts a residential district shall be not less than twenty-five (25) feet. In all other cases each side shall be not less than ten (10) feet.
3. **Rear Yard:** Each lot shall have a rear yard of not less than ten (10) feet; the depth of a rear yard which abuts a residential district shall not be less than twenty-five (25) feet; where a commercial building is serviced from the rear there shall be provided a rear yard of not less than thirty (30) feet; where a commercial building is serviced from the rear and abuts residential property the depth of the rear yard shall not be less than forty-five (45) feet.
4. **Land Area:** For areas served by a sanitary sewer system, there shall be a minimum lot area of not less than seven thousand (7,000) square feet.

In areas that are not served by a sanitary sewer system, the lot area requirements shall be determined by the Health Department.

5. **Width:** Each lot shall have a width of not less than fifty (50) feet at the building line.
6. **Height Restrictions:** No building or structure shall exceed forty (40) feet, except as provided in Section 11.03.
7. **Buffer Strip:** Where a commercial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

08.06. Off-Street Parking Space Requirements.

As regulated in Section 10.02.

08.07. Access Control Requirements.

As regulated in Section 10.03.

08.08. Signage Requirements.

As regulated in Section 10.04.

08.09. Site Plan Review Requirements.

As regulated in Section 10.05.

08.10. Off-Street Loading and Unloading Requirements.

As regulated in Section 10.06. (as added by Ord. #67, Feb. 2011)

**CHAPTER 9
I-1 INDUSTRIAL ZONING DISTRICT**

Section

- 09.01. District Description.
- 09.02. Uses Permitted.
- 09.03. Uses Permitted on Appeal.
- 09.04. Uses Prohibited.
- 09.05. Dimensional Regulations.
- 09.06. Off-Street Parking Space Requirements.
- 09.07. Access Control Requirements.
- 09.08. Signage Requirements.
- 09.09. Site Plan Review Requirements.
- 09.10. Off-Street Loading and Unloading Requirements.

09.01. District Description.

The industrial district is established to provide areas in which the principal use of land is for manufacturing and assembly plants, processing, storage, warehousing, and distribution. It is the intent that permitted uses are conducted so that most of the noise, odor, dust, and glare of each operation is confined within an enclosed building. These industries may require direct access to rail, water, or street transportation routes.

These regulations are intended to prevent friction between uses within the district and also between adjoining commercial or residential uses.

09.02. Uses Permitted.

In the I-1 Light Industrial District, the following uses and their accessory uses are permitted.

1. Building contractors (SIC 15).
2. Heavy construction (SIC 16).
3. Construction special trade (SIC 17).
4. Textile mills (SIC 22).
5. Apparel (SIC 23).
6. Furniture and fixtures (SIC 25).
7. Industrial and commercial machinery and computer equipment (SIC 35).
8. Electronic and other electrical equipment (SIC 36).
9. Transportation equipment (SIC 37, excluding 376).
10. Electric services (SIC 4911).
11. Water supply (SIC 4941).
12. Machinery equipment and supplies (SIC 508).

09.03. Uses Permitted on Appeal.

In the I-1 Light Industrial District the following uses and their accessory uses may be permitted, subject to appeal and approval of the Ducktown Board of Zoning Appeals, in accordance with the provisions of Section 12.06.

When the BBZA considers uses on appeal for manufacturing, fabricating, processing, or assembling processes consideration should be made for uses which do not create any danger to health or safety in surrounding areas and which do not create any objectionable noise, vibration, smoke, dust, odor, heat, or glare and further provided that the facility shall not produce noxious or toxic compounds that could create objectionable conditions and the facility shall conform to the general intent of the I-1 Industrial District.

1. Mining and quarrying (SIC 1422 and 1442). All other industry numbers in Group 14 are excluded.
2. Lumber and wood products (SIC 24, excluding 2411 - logging, and excluding 2491 - wood preserving).
3. Fabricated metal products (SIC 34, excluding Industry Groups 347 and 348).
4. Miscellaneous manufacturing (SIC 39).
5. Motor freight transportation and warehousing (SIC 42).
6. Gas production and storage (SIC 4922).
7. Fuel dealers (SIC 598).

09.04. Uses Prohibited.

All uses except those uses specifically permitted in the I-1 Industrial District are prohibited.

09.05. Dimensional Regulations.

All uses permitted in the I-1 Industrial District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** The minimum building setback line for the front yard shall be thirty-five (35) feet.
2. **Rear Yard:** The minimum depth of the rear yard shall be thirty (30) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the rear setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.

3. **Side Yard:** The minimum depth of the side yard shall be twenty-five (25) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the side setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.
4. **Land Area:** Where public water and sewer service are available, there shall be required a minimum land area of one-half (1/2) acres. In areas where only public water is available the minimum lot size shall be determined by the type and size of the industry and the individual sewage disposal needs of that industry. Where septic tank or other private sewage disposal is provided, health department approval shall be required. In no case shall the minimum lot size be less than one acre.
5. **Lot Width:** No lot shall be less than two hundred (200) feet wide at the building setback line or exceed a three-to-one (3:1) ratio.
6. **Height Restrictions:** No building or structure shall exceed forty (40) feet, except as provided in Section 11.03.
7. **Buffer Strip:** Where an industrial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.
8. **Maximum Lot Coverage:** Buildings and accessory facilities shall not cover more than fifty (50) percent of the lot; buildings, accessory facilities, parking, and materials handling and transfer facilities shall not cover more than eighty (80) percent of the lot. No building or accessory facilities above ground shall extend beyond the building setback line(s) into the setback area(s).
9. **Railroads:** Lots abutting upon a railroad lead track easement or right-of-way shall reserve sufficient space to permit construction of a side track approximately parallel to the railroad easement or right-of-way.

09.06. Off-Street Parking Space Requirements.

As regulated in Section 10.02.

09.07. Access Control Requirements.

As regulated in Section 10.03.

09.08. Signage Requirements.

As regulated in Section 10.04.

09.09. Site Plan Review Requirements.

As regulated in Section 10.05.

09.10. Off-Street Loading and Unloading Requirements.

As regulated in Section 10.06. (as added by Ord. #67, Feb. 2011)

**CHAPTER 10
SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS**

Section

- 10.01. Customary Home Occupations.
- 10.02. Off-Street Parking Requirements.
- 10.03. Access Control Requirements.
- 10.04. Signage Requirements.
- 10.05. Site Plan Review Requirements.
- 10.06. Off-Street Loading and Unloading Requirements.
- 10.07. Accessory Use Regulations.
- 10.08. Temporary Use Regulations.
- 10.09. General Lot Restrictions.
- 10.10. Vision at Street Intersections.
- 10.11. Gasoline Service Station Restrictions.
- 10.12. Standards for the Appearance of Manufactured Homes.
- 10.13. Standards for a Bed and Breakfast.

10.01. Customary Home Occupations.

An occupation, profession, activity or use that is clearly a customary, secondary, and incidental use of a residential dwelling which does not alter the exterior of the property or affect the residential character of the neighborhood. The customary home occupation shall not create any additional parking or traffic congestion which affects the residential character of the neighborhood. The customary home occupation shall allow for one additional parking space other than parking used by those which occupy the residential dwelling. The customary home occupation shall not have signage which negatively affects the residential character of the neighborhood in which it is located. Only one sign is allowed for a customary home occupation. The sign shall be attached to the side of the home which faces the road with the highest classification according to the Ducktown Major Road Plan. The sign shall be no more than two square feet in size.

When questions arise regarding the acceptability of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is

in compliance with these regulations and is compatible with the district in which said home occupation is located.

10.02. Off Street Parking Requirements.

The following off-street parking requirements are applicable to all zoning districts.

10.02.01. Spaces Required. Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below:

1. **Dwellings:** Not less than one (1) space for each family dwelling unit.
2. **Tourist Accommodations, Motel, or Hotel:** Not less than one (1) space for each room offered for tourist accommodation.
3. **Any Auditorium, Church, Stadium, or Other Place of Public Assembly:** Not less than one (1) space for every four (4) seats provided in such places of assembly. For places of public assembly where seating is not a measure of capacity, such as clubhouses, funeral parlors, etc., at least one (1) space for each one hundred (100) square feet of floor space devoted to that particular use shall be provided.
4. **Manufacturing or Other Industrial Use:** At least one (1) space for every four (4) persons employed on a single shift, where there are more than one shift there should be two (2) spaces for every four employees to allow space when shifts change and there should be a minimum of five (5) spaces provided for any establishment.
5. **Commercial Building or Use:** One (1) space for each one hundred and seventy-five (175) square feet of usable floor space in commercial districts. (Usable floor space is to be determined by the building inspector based on the nature of the business.)
6. **Medical or Dental Clinics and Hospitals:** Four (4) spaces per doctor, plus one (1) additional space per employee.
7. **Service Stations:** Five (5) spaces for each grease rack or similar facility, plus one (1) space for each gasoline pump.
8. **Offices:** One (1) space for each two hundred (200) square feet of office space.

9. **Restaurants:** One (1) space per one hundred fifty (150) square feet of usable floor area, plus one (1) space for every two (2) employees. (For drive-in restaurants, one (1) space per fifty (50) square feet of usable floor area.)

10.02.02. Certification of Minimum Parking Requirements. Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the building inspector to determine whether or not the requirements of this section are met.

10.02.03. Combination of Required Parking Space. The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

10.02.04. Remote Parking Space. If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within five hundred (500) feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space, meeting the requirements of this ordinance, has been made for the principal use.

10.02.05. Requirements for Design of Parking Lots.

1. Except for parcels of land devoted to one-, two-, three- and four-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
2. Each parking space shall be no less than two hundred (200) square feet in area (20' x 10').
3. Entrances and exits for all off-street parking lots shall comply with the requirements of Section 10.03.
4. The parking lot shall be paved with asphalt or concrete and contoured to provide drainage to eliminate surface water.
5. Handicap spaces should meet the requirements of the ADA.

6. Parking lot designs should contain designs to include detention/retention areas to sustain a 25 year storm event.

10.03. Access Control Requirements.

In order to expedite the movement of traffic, to promote the safety of the motorist and pedestrian, and to minimize traffic congestion and conflict, it is necessary to reduce the points of vehicular contact. Therefore, to effectively control vehicular access on to the streets of Ducktown, it is necessary to classify such streets as follows:

1. Arterial Streets;
2. Collector Streets; and
3. Local streets.

The classification of each street shall be as shown on the Major Road Plan of Ducktown, Tennessee, which is kept in City Hall.

10.03.01. General Access Regulations Applying to All Classifications of Streets.

1. **Maximum Width of All Access Points:** The maximum width of all access points shall be 30 feet measured at the property line except when the development requiring access generates high overall or high peak traffic volumes, the DMPC may approve a wider channeled access point to allow various turning movements for greater traffic control and safety.
2. **Temporary Access Ways:** Temporary access ways may be generated by the planning commission at locations other than those specified for permanent access where it is expedient for the purpose of staged development. Temporary access ways shall be closed when permanent access to the property is completed.
3. **Off-street Parking Lanes Entirely Independent of Public Streets:** No off-street vehicular storage or parking area shall be allowed where the arrangement requires that vehicles back directly into a public street right-of-way.
4. **Access for Lots Fronting on More Than One Street:** In all commercial and industrial developments where a lot abuts more than one street, the planning commission may require that the access be provided from the street of lowest classification when necessary to lessen serious congestion on the major street. If access is allowed on to two or more

streets, the number of access points shall conform to those allowed for each street classification. (See Subsection C.)

5. **Gasoline Service Stations:** Gasoline service stations shall be allowed two (2) access points on to the same street to allow proper circulation past gasoline pumps. This is regardless of lot width or street classification provided the required site plan is approved by the DMPC.

10.03.02. Specific Number of Access Points Allowed for Each Street Classification. Wherever topographical features, existing developmental patterns, or other factors make the construction of frontage roads unfeasible, the planning commission shall allow direct access to the existing streets according to the following minimum requirements for each street classification. Where access is wider than allowed below in subsections (1-3), a curb should be used along the street right of way to limit access to one area.

1. **Access Points for Major Thoroughfares (Arterials):** In the absence of a frontage road, all lots having between 50 and 200 feet of frontage shall have no more than one (1) point of access to the major thoroughfare. For lots with over 200 feet of frontage, additional access points shall be allowed provided they are spaced at least 200 feet apart from each other and from the first access point. For development generating high overall or high peak traffic volumes, the DMPC may lessen the distance between access points to allow improved access provided a carefully planned pattern of internal and external channelization is prepared and approved.

When a lot of record fronting a major thoroughfare has less than 100 feet of frontage, the DMPC shall first attempt to obtain joint access with either adjacent property or access on to a frontage road. If this is not feasible, one single access point may be allowed, and should be located with consideration to the distance to the access points on the adjacent lots.

2. **Access Points for Collector Streets:** In the absence of a frontage road, all lots less than 150 feet in width shall have no more than one (1) point of access to any one public street. For lots with over 150 feet of frontage, additional access points shall be allowed provided they are spaced at least 150 feet apart from each other and from the first access point.
3. **Access Points for Local Streets:** All lots of less than 100 feet shall have no more than one (1) point of access to the local street. For lots with over 100 feet of frontage, additional access points may be allowed provided they are spaced at least 50 feet apart from each other and from the first access point. (Frontage Roads shall also be considered Local

Streets in order to provide the most lenient access provisions to developers who construct these beneficial facilities.)

10.04. Signage Requirements.

The purpose of this section is to regulate the location, type and structural requirements of outdoor advertising displays in the City of Ducktown. The purpose of these regulations is to ensure compatible land uses, public safety, and adequate design standards.

10.04.01. General Provisions. The following regulations (1-3) shall apply to all zoning districts:

Signs, as allowed in this section, shall be no closer than one-half the distance of the required front yard to the street right-of-way.

1. No sign(s) shall be erected in such a manner as to interfere with the free use of a fire escape, entrance or exit, or that shall obstruct the vision of a driver at a driveway or street intersection.
2. Signs will meet all setback requirements.
3. Banners, streamers, flags, similar temporary signs, and portable signs are not allowed except to advertise special events and grand opening ceremonies for a period not to exceed sixty (60) days preceding the event and must be removed within seven (7) days following the event. Provided, that flags of a nation, state, other political jurisdiction, governmental entity or corporation shall be exempt.

Residential Districts. Section 10.04.01 above and the following regulations govern signs in the R-1, R-2, and R-3 Residential Districts:

- 1) Non-residential uses in the residential district are limited to one (1) sign thirty-two (32) square feet in area and ten (10) feet in height.
- 2) Subdivisions and multi-family developments are limited to one (1) sign per entrance, not to exceed thirty-two (32) square feet in area and ten (10) feet in height.

Commercial Districts. Section 10.04.01 above and the following regulations govern signs in the C-1 and C-2 Commercial District:

- 1) The maximum number of signs per principal building, or use, are two (2), but not two (2) of the same type. Buildings or uses fronting

on more than one (1) street may have one additional sign for each road frontage.

- 2) No wall sign shall cover more than twenty-five (25) percent of the wall area on which it is to be located.

Industrial District. Signs in the I-1 Industrial District shall meet the same requirements as the Commercial District.

10.04.02. Non-Conforming Signs. Outdoor advertising displays which are nonconforming at the time of the passage of this ordinance shall be permitted to remain as long as they are properly maintained and are not considered to be a safety hazard. If a non-conforming advertising display ceases to display advertising matter for a period of one year or is damaged beyond fifty (50) percent of its replacement value, such sign shall be considered illegal and subject to removal.

10.04.03. Outdoor Advertising Displays Must be Maintained. All outdoor advertising displays must be maintained in such a manner so as to not endanger the public's safety. Upon finding that a sign is a safety hazard, the Ducktown Building Inspector shall give the owner of the property on which the sign is located a written notice which shall outline the corrective measures that must be completed in a maximum of thirty (30) days. If at the end of thirty (30) days the sign has not been brought into compliance, it shall be subject to removal as outlined in subsection 10.04.07.

10.05. Site Plan/Sketch Plan Review Requirements.

To provide for the orderly and proper development of land within the City and to protect the public health, safety, and welfare, the following requirements shall be mandatory.

10.05.01. Exceptions.

1. **Exceptions:** The provisions of Section 10.05. shall not apply to:
 - a. Single-family dwellings, two-family dwellings, or accessory buildings thereto
2. **Exceptions:** When the following exceptions apply, only a sketch plan will be required that should meet the requirements of Section 10.05.07.
 - a. Additions to buildings where the total gross floor area of the proposed addition does not exceed one-third (1/3) of the total gross

floor area of the existing building or one thousand (1,000) square feet, whichever is smaller.

- b. New buildings where the total gross floor area does not exceed one thousand (1,000) square feet, provided there is no alteration of drainage flow of land or grading exceeding cut or fill of one (1) foot, the site is not in a flood plain, the site is not in excess of ten thousand (10,000) square feet, or a new access is being built. If the new access is the only provision that would necessitate a site plan, then a sketch plan will be sufficient.
- c. Improvements to off-street parking to existing buildings and where access will be provided by existing driveways, when such improvement does not provide more than five (5) additional parking spaces.

10.05.02. Approved Site Plan Required to Erect or Enlarge Buildings. Except as provided in subsection 10.05.01, it shall be unlawful for any person to construct, erect, alter or increase the floor area of any building or structure or change the land area covered by any building on any land within the City until a site plan has been submitted and approved in accordance with the provisions of this chapter.

10.05.03. Development According to Site Plan. It shall be unlawful for any person to construct, erect, or alter any building or structure or to develop, change, or improve land for which an approved site plan is required by this chapter, except in accordance with the approved final site plan.

10.05.04. Permits Not to be Issued Without Approved Site Plan. No permit shall be issued to erect or alter any building or structure or alter the grade of any land that is subject to this chapter until a site plan has been submitted and approved in accordance with the provisions of this chapter.

10.05.05. Site Plan Submission. The owner or developer shall submit at least three (3) copies of the proposed site plan seven (7) days prior to his intended date of site alterations. The Planning Commission shall consider the site plan in light of the provisions of this chapter and approve or disapprove the site plan. The plans then shall be returned to the owner or his agent with the date of such approval or disapproval noted thereon over the signature of the Planning Commission Secretary.

10.05.06. Site Plan.

1. The site plan shall show the following:

- a. Name and address of development
 - b. Name and address or owner of record and the applicant
 - c. Present zoning classification of the site and abutting property
 - d. Date, scale, and north point with reference to source of meridian
 - e. Courses and distances of center lines of all streets and all property lines
 - f. All building restricting lines, highway setback lines, easements, covenants, reservation, and rights-of-way
 - g. The total land area
 - h. Topography of existing ground and paved areas, and elevations of streets, alleys, utilities, sanitary and storm sewers, and buildings and structures; topography to be shown by dashed lines illustrating five (5) foot contours.
 - i. Signature block for planning commission secretary to sign.
2. The site plan shall show the location of the following when existing:
- a. Number of structures or dwelling units
 - b. Number of parking spaces
 - c. Number of loading spaces
 - d. Square feet of floor space
 - e. Number of commercial or industrial tenants and employees
 - f. Plans for collecting storm water and methods of treatment of natural and artificial watercourses, including a delineation of limits of flood plains
 - g. Proposed grading, surface drainage, terraces, retaining wall heights, grades on paved areas and ground floor elevations of proposed buildings and structures; proposed topography of site shall be shown by (5) foot contours.

3. The site plan shall include an adequate erosion control plan.
4. Any building or structure shall be reasonably accessible to fire, police, emergency, and service vehicles. When deemed necessary for access by the Fire Chief or planning commission, emergency vehicle easements shall be provided.

Site plans should also be submitted (10) working days prior to the Planning Commission meeting to the building inspector and planning staff.

10.05.07. Appeals. If an applicant determines that his site plan has been unjustly disapproved or that the Planning Commission or Building Inspector has made requests for conformity to standards other than those set forth in this Ordinance, he may appeal the decision of the Planning Commission or Building Inspector to the Ducktown Board of Zoning Appeals in accordance with Section 12.06.

10.05.08. Penalties. As regulated in Section 12.11.

10.06. Off-Street Loading and Unloading Requirements.

Every building or structure hereafter constructed and used for industry, business, or trade in all districts shall provide space for the loading and unloading of vehicles off the street or public alley.

1. This space shall not be considered as part of the space requirements for off-street automobile storage.
2. Behind every building or structure used for business or trade, there shall be a rear yard not less than twenty (20) feet in depth to provide space for loading and unloading vehicles.
3. The Board of Zoning Appeals may hereafter reduce or increase this requirement in the interest of safety where unusual or special conditions merit special consideration.

10.07. Accessory Use Regulations.

The uses of land, buildings, and other structures permitted in each of the districts established by this ordinance are designated by listing the principal uses. In addition to such principal uses; accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

1. Be customarily incidental to the principal use established on the same lot.

2. Be subordinate to and serve such principal use.
3. Be subordinate in area, intent, and purpose to such principal use.
4. Contribute to the comfort, convenience, or necessity of users of such principal use.

10.08. Temporary Use Regulations.

The following regulations are necessary to govern the operation of certain necessary or seasonal uses non-permanent in nature. Application for a Temporary Use Permit shall be made to the building inspector or city manager at city hall. Said application shall contain a graphic description of the property to be utilized and a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

1. **Carnival or Circus:** May obtain a Temporary Use Permit in the C-1, C-2, or I-1; however, such permit shall be issued for a period of not longer than fifteen (15) days.
2. **Christmas Tree Sale:** May obtain a 30-day Temporary Use Permit for the display of Christmas Trees on open lots in the C-1, C-2, and I-1 Districts.
3. **Temporary Buildings:** In any district, a Temporary Use Permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six (6) month extensions; however, not more than three (3) extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.
4. **Real Estate Sales Office:** In any district, a Temporary Use Permit may be issued for a temporary real estate sales office in any new subdivision which has been approved by the planning commission under the Ducktown Subdivision Regulations. Such office shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2) six (6) month extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.

5. **Religious Tent Meetings:** In the C-1, C-2, and I-1 Districts, a Temporary Use Permit shall be issued for a tent or other temporary structures to house a religious meeting. Such permit shall be issued for not more than a 30-day period.
6. **Seasonal Sale of Farm Produce:** In all Commercial and Industrial Districts, a Temporary Use Permit may be issued for the sale of farm produce grown locally. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a five (5) month period. All structures must be set back from the roadway a minimum of thirty-five (35) feet. The setback requirement may be waived by the building inspector for carts, pick-up trucks, trailers, or other structures not left overnight if it is deemed that these temporary "structures" will not create a traffic or other safety hazard.
7. **Miscellaneous Assemblies:** In the C-1, C-2, and I-1 Districts, a Temporary Use Permit may be issued for any assembly such as an outdoor music concert, political rally, etc. Such permit shall be issued for not more than a seven (7) day period.

10.09. General Lot Restrictions.

The following general lot restrictions shall be applicable in all districts:

10.09.01. One (1) Principal Structure for Each Lot. Only one (1) principal building and its customary accessory buildings may be erected on any lot.

10.09.02. Public Road Frontage Requirement. No building shall be erected on a lot which does not abut at least one (1) street for its entire frontage. No building shall be erected on a lot with less than fifty (50) foot frontage, except in the C-1 zone where a twenty-five (25) foot frontage is permissible. Such building shall conform to the lot and yard requirements of the district in which it is located.

10.09.03. Open Space Limitations. No yard or other open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space for any other building.

10.09.04. Reductions in Lot Area Prohibited. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

10.09.05. Rear Yard Abutting a Public Street. When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street line or property line as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.

10.10. Vision at Street Intersections.

On a corner lot in any district, within the area formed by the center-lines of the intersecting or intercepting streets and a line joining points on such center-lines at a distance of seventy-five (75) feet from their intersection, there shall be no obstruction to visions between the height of two and one-half (2 1/2) feet and a height of ten (10) feet above the average grade of each street at the centerline thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

10.11. Gasoline Service Station Restrictions.

The following regulations shall apply to all gasoline service stations:

1. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands. The depth of the front yard shall also be forty (40) feet from any right-of-way for all secondary structures including secondary structures such as gasoline pumps.
2. Gasoline pumps and canopies shall not be located closer than thirty (30) feet to any street right-of-way line.
3. Sign requirements as established in Section 10.04, shall be met.

10.12. Standards for the Appearance of Manufactured Homes.

1. Permitted Locations. Modular & manufactured homes, as defined, shall be permitted in all residential districts subject to the requirements and limitations set forth herein and which apply generally to residential use in such zoning classifications, including minimum lot size, setbacks, percentage of lot coverage and off-street parking requirements. Mobile homes (**trailer/single-wide**) are only permitted in the R-3 Residential district but shall also meet the specifications of this section.
2. The manufactured or mobile home must be connected to a public water and sewage system. Provided that where public water or sewer is not available, private well and septic tank installations approved by the

Tennessee Department of Environment and Conservation may be utilized.

3. Manufactured and mobile homes qualifying as single-family dwellings shall have the same appearance as required for site built homes and shall be built in two (2) or more sections.
4. All towing devices, wheels, axles and hitches must be removed.
5. Within 30 days of placement of a manufactured or mobile home, a brick or cinder block skirting compatible with the home's exterior siding shall be securely placed around the structure from the bottom of the home to the ground. Also, steps of a type approved by the building inspector shall be installed with the said time limit as necessary.
6. Manufactured (mobile) homes shall be installed in accordance with the requirements of the Manufactured Home Anchoring Act (TCA Section 68-36-401).
7. Within 30 days of placing a manufactured (mobile) home, the manufactured (mobile) home shall be skirted with a permanent enclosure similar in design to the manufactured (mobile home), constructed of weather resistant materials, enclosing the space directly beneath the mobile home.
8. Where installation of the electric meter on a separate pole, not on the structure, is approved by the deputy state fire marshal/electrical inspector, said pole shall be at the rear of the manufactured home. Provided, where the Utility cannot place the meter pole at the rear of the structure, said pole shall be at the side of the structure and shall have an opaque panel fence on the front and open side of the pole eight (8) feet high. The space to the rear of the pole shall be left open for emergency access and for meter readings.

Where applicable, all site-built additions to manufactured homes shall meet the requirements of the Ducktown Building Code.

10.13. Standards for a Bed and Breakfast.

Bed and Breakfast operations are a permitted use in the R-1 and R-2 Residential Zones. The City of Ducktown Municipal Planning Commission may require such conditions as are necessary to preserve and protect the character of the neighborhood in which the proposed use is located.

Permits - No building permit or Certificate of Occupancy for such use shall be issued without written approval of the City of Ducktown Municipal Planning Commission.

1. Location - The Bed and Breakfast operation shall be located and conducted in the principal building only.
2. Operator Occupied - Proprietors of the Bed and Breakfast operation shall be permanent residents of the dwelling in which it is located. As permanent residents, they shall keep separate and distinct sleeping quarters from Bed and Breakfast guests. No more than two (2) paid assistants may be employed.
3. Number of Rental Units - No more than four (4) bedrooms shall be for rent at any one time at any one Bed and Breakfast establishment.
4. Length of Stay - Lodging of guests at the Bed and Breakfast establishment shall be limited to no more than ten (10) days during any one (1) stay.
5. Food Services - Meals for other than owners and staff will be restricted to breakfast for paid house guests only. Breakfast hours are limited to from 6:00 a.m. to 11 :00 a.m.
6. Site Plan - An accurately drawn plan shall be presented to the City of Ducktown Municipal Planning Commission at least ten (10) days prior to the meeting. The site plan shall show the location of the principal building, off-street automobile parking, and relationship to adjoining properties and surrounding land use, existing zoning of the proposed site, and any other information as may be required by the City of Ducktown Municipal Planning Commission.
7. Appearance - The residential character and appearance of the home shall not be changed by the establishment of a Bed and Breakfast operation.
8. Advertising - The proposed use shall not be advertised by the use of signs, which exceed three (3) square feet in area. The sign shall be non-illuminated and must be attached flat to the main structure or visible through a window.
9. Parking - Off-street parking facilities shall be provided at the rate of at least one space per room for rent in addition to at least two spaces for the household. Parking will comply with Chapter 10.02 of the City of Ducktown Zoning Ordinance.

10. All applicable Federal, State, and Municipal codes, including municipal fire, building, and electrical codes shall be complied with as a condition of approval by the City of Ducktown Municipal Planning Commission.

The City of Ducktown Municipal Planning Commission may also attach other conditions on the use of the structure or site which will be necessary to carry out the intent of the Zoning Ordinance. Consideration will be given to the impact on adjoining properties. Landscaping, fencing, screening and other methods might be required to mitigate anticipated impacts to the neighborhood. (as added by Ord. #67, Feb. 2011)

CHAPTER 11 EXCEPTIONS AND MODIFICATIONS

Section

- 11.01. Scope.
- 11.02. Nonconforming Uses.
- 11.03. Exceptions to Height Limitations.
- 11.04. Lots of Record.
- 11.05. Exceptions to Front Yard Setback Requirements.
- 11.06. Absolute Minimum Lot Size.

11.01. Scope.

Chapter 11 of this ordinance is devoted for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided for in Chapter 10.

11.02. Nonconforming Uses.

It is the intent of this ordinance to recognize that the elimination, as expeditiously as is reasonable, of the existing buildings and structures or uses that are not in conformity with the provisions of this ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this ordinance. It is also the intent of this ordinance to so administer the elimination of nonconforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights.

Lawful non-conforming uses, buildings, and structures existing at the time of the passage of this ordinance or any amendment thereto, shall be allowed to remain subject to the following provisions:

1. An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same or higher classification, providing, however, that the establishment of another

non-conforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.

2. A non-conforming use of land shall be restricted to the area occupied by such use as of the effective date of this ordinance (See a. exceptions). A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance (See a. exceptions).
 - a. Any commercial or industrial business established prior to this ordinance shall be allowed to continue in operation and be permitted; provided, that no change in the use of the land is undertaken by such industry or business. A commercial or industrial business shall also be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the activities of the industry or business which were permitted and being conducted prior to the change in zoning, provided that there is reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.
3. When a non-conforming use of any structure of land, excepting non-conforming manufactured home or mobile homes has been discontinued for a period of six (6) months, it shall not be re-established or changed to any use not in conformity with the provisions of this ordinance. Immediately upon the removal of a nonconforming manufactured home or mobile home the nonconformity of such structure and use of land shall lapse.
4. Any non-conforming building or non-conforming use, which is damaged by fire, flood, wind, or other act of God or man, may be reconstructed and used as before, if it be done within twelve (12) months of such damage. If the owner of property wishes to request an extension due to hardship; such as weather or insurance claim, the request can be made to the DMPC and must be approved by a majority of the members present at an official meeting.
5. A non-conforming building or building housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this ordinance. This provision shall not be construed to

prevent normal maintenance and repairs of alterations required for structural safety.

11.03. Exceptions to Height Limitations.

The height limitations of this ordinance can be exceeded provided the following conditions are met.

1. The developer must present, at the time he applies for a building permit, a copy of the building plans which have been approved by the Ducktown Fire Chief. These plans must show all of the following:
 - a. A wet standpipe riser with one and one-half (1 1/2) inch fire hose connections,
 - b. A wet automatic sprinkler protection system for the entire building,
 - c. Enclosed exit stairways,
 - d. Smoke and heat detection units, and
 - e. Any other fire protection and prevention requirements which the fire chief feels are necessary for the building, including a height requirement not to exceed the capability of the Fire Department.

The design and installation of these fire protection measures must be in conformance with the National Fire Protection Association Standards (NFPA).

2. Before the building can be occupied, the developer must secure a statement from the fire chief that the fire protection systems have been installed according to the plans and that the system is functioning properly.
3. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, silos, grain elevators, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, cell phone towers, and aerials.

11.04. Lots of Record.

The following provisions shall apply to all existing lots of record:

1. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the **Ducktown Board of Zoning Appeals for a variance from the terms of this ordinance**. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as in the opinion of the Ducktown Board of Zoning Appeals is possible.
2. No lot which is not or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
3. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

11.05. Exceptions to Front Yard Setback Requirements.

The front setback requirement of this ordinance for structures shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

11.06. Absolute Minimum Lot Size.

In no case shall the Board of Zoning Appeals permit a residence to be erected on a lot whose width at the building setback line is less than fifty (50) feet and/or whose total lot area is less than five thousand (5,000) square feet. (as added by Ord. #67, Feb. 2011)

**CHAPTER 12
ADMINISTRATION AND ENFORCEMENT**

Section

12.01. Administration of the Ordinance.

- 12.02. The Enforcement Officer.
- 12.03. Building Permits.
- 12.04. Temporary Use Permits.
- 12.05. Certificate of Occupancy.
- 12.06. Board of Zoning Appeals.
- 12.07. Procedure for Authorizing Uses Permitted on Appeal.
- 12.08. Variances.
- 12.09. Amendments to the Ordinance.
- 12.10. Remedies.
- 12.11. Penalties for Violations.
- 12.12. Conflict with Other Regulations.
- 12.13. Separability.
- 12.14. Effective Date.

12.01. Administration of the Ordinance.

Except as otherwise provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

12.02. The Enforcement Officer.

The provisions of this ordinance shall be administered and enforced by the Ducktown Building Inspector in conjunction with the Ducktown City Manger. The building inspector with the assistance of the city manager shall administer and enforce this ordinance and, in addition, he/she shall:

1. Issue all Building Permits and make and maintain records thereof.
2. Issue all Certificates of Occupancy and make and maintain records thereof.
3. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
4. Maintain and keep current zoning maps, and records of amendments thereto.

5. Conduct inspections as required in this ordinance and such other inspections as are necessary to ensure compliance with the various other general provisions of this ordinance. The building inspector shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his/her authorized duties.
6. Administer and enforce the National Flood Insurance Program (NFIP).

12.03. Building Permits.

Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, fill or excavate land lying within any flood hazard areas, or to erect or construct a sign of any description, or to install or alter fire-extinguishing apparatus, elevators, engines, or to install a steam boiler, furnace, heater, incinerator, or other heat producing apparatus, or other appurtenances, the installation of which is regulated by this code, or to cause any such work to be done, in excess of one thousand (\$1,000.00) dollars shall first make application to the building official and obtain the required permit thereof. Where such work is less than (\$1,000.00) dollars, a permit is still required but no fee will be charged. Permit fees will be set by the Board of Mayor and Commissioners and will be listed in the city's fee schedule.

A general permit shall carry with it the right to install in any building or structure, or part thereof, heating apparatus, elevators, sidewalk elevators, vaults, chutes, coal holes, lifts, cranes, derricks, steam power boilers, steam, oil, gas or vapor engines, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit; but where these are not shown on the drawings and covered by the specifications submitted with said application, special permits shall be required.

Minor repairs may be made with the approval of the building official without a permit; provided that such repairs shall not violate any of the provisions of this code.

Any building permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issuance or if work authorized by the permit is suspended or discontinued for a period of one (1) year.

12.04. Temporary Use Permits.

It shall be unlawful to commence construction or development of any use of a temporary nature until a permit has been secured from the Ducktown Building Inspector. Application for a Temporary Use Permit shall be made in writing to the building inspector on forms provided for that purpose.

12.05. Certificate of Occupancy.

No land or building or their structure or part thereof hereafter erected, moved, or altered in its use shall be used until the building inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within ten (10) working days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof, and to issue a Certificate of Occupancy, if the building or premises or part thereof is found to conform with the provisions of this ordinance; or, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

12.06. Board of Zoning Appeals.

A Ducktown Board of Zoning Appeals (BBZA) is hereby established in accordance with Section 13-7-205 through 13-7-207 of the Tennessee Code Annotated. The Ducktown Municipal Planning Commission shall also serve as the Board of Zoning Appeals.

12.06.01. Procedure. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the DBZA may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the DBZA shall be open to the public. The DBZA shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

12.06.02. Appeals to the BBZA. An appeal to the Ducktown Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing an application (see appendix)¹ with the Board of Zoning Appeals specifying the grounds thereof. The building inspector shall transmit to the DBZA all papers constituting the record upon which the action appealed was taken. The DBZA shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

¹The appendix to the Ducktown Zoning Ordinance can be found in the office of the recorder.

12.06.03. Powers of the DBZA. The Ducktown Board of Zoning Appeals shall have the following powers as empowered by Tennessee Code Annotated 13-7-207.

13-7-207. Powers of board of appeals.

The board of appeals has the power to:

(1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the municipal building commissioner or any other administrative official in the carrying out or enforcement of any provision of any ordinance enacted pursuant to this part and part 3 of this chapter;

(2) Hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such ordinance to pass; and

(3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this part and part 3 of this chapter would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

[Acts 1935, ch. 44, § 5; C. Supp. 1950, § 3407.5; T.C.A. (orig. ed.), § 13-707.]

A summary of the Powers of the DBZA is as follows:

1. **Administrative Review:** To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out of enforcement of any provision of this ordinance.
2. **Special Exceptions:** To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation

of the zoning map, and for decision on any special questions upon which the Board of Zoning appeals is authorized to pass.

3. **Variances:** To hear and decide applications for variances from the terms of this ordinance.

12.07. Procedure for Authorizing Uses Permitted on Appeal.

The following procedure is established to provide procedures for appeal of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this ordinance or whether a review is requested by the building inspector to determine whether a proposed use is potentially noxious, dangerous, or offensive. This procedure shall also be used in submitting special exceptions to the Board of Zoning Appeals.

1. **Application.** An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended use of the site, the names of the property owners, and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the DBZA may require. Application for a building permit shall be made in writing to the building inspector on forms provided for that purpose. It shall be unlawful for the building inspector to approve the plans or issue a building permit for any excavation, filling or construction until such plans have been inspected in detail and found to be in conformity with this ordinance. To this end, the application for a building permit for excavation, filling, construction, moving, or alteration, shall be accompanied by a plan or plat drawn to a scale showing the following in sufficient detail to enable the building inspector to ascertain whether the proposed excavation, filling, construction, moving, or alteration is in conformance with this ordinance:
 - a. The actual shape, location, and dimensions of the lot to be built upon;
 - b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot;
 - c. The existing and intended use of all such buildings or other structures;
 - d. Location and design of off-street parking areas and off-street loading areas. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

- e. In areas that are subject to flooding, the following additional information is required:
 - (1) Elevation in relation to mean sea level (MSL) of the lot;
 - (2) MSL elevation of the lowest floor (including basement) of all structures;
 - (3) MSL elevation to which any nonresidential structure is proposed to be flood-proofed.
- f. The location of the foregoing in relation to any stream within the vicinity.

If the proposed excavation, filling, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the building inspector shall issue a building permit for such excavation or construction. If an application for a building permit is not approved, the building inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this ordinance, and building permits shall be void after six (6) months from date of issue, unless substantial progress on the project has been made by that time.

- 2. **Restrictions.** In the exercise of its approval, the planning commission may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.
- 3. **Validity of Plans.** All approved plans, conditions, restrictions, and rules made a part of the approval of the planning commission shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.
- 4. **Time Limit.** All application reviewed by the planning commission shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

12.08. Variances.

The purpose of the variance provision is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional **physical conditions**, whereby such strict application would result in practical difficulty or

unnecessary hardship which would deprive an owner of **the reasonable use of his land**. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

1. **Application.** After written denial of a permit, a property owner may make application for a variance, using the standard form made available by the Ducktown Board of Zoning Appeals.
2. **Hearings.** Upon receipt of an application and ten (\$10.00) dollar fee, the DBZA shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The DBZA shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.
3. **Standards for Variances.** In granting a variance, the DBZA shall ascertain that the following criteria are met as outlined in Subsection 3 of Tennessee Code Annotated Section 13-7-207.
 - a. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the DBZA, do not apply generally in the district;
 - b. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested;
 - c. For reasons fully set forth in the findings of the DBZA, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss of value shall not justify a variance. There must be a deprivation of beneficial use of land.
 - d. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development;
 - e. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefore.

12.09. Amendments to the Ordinance.

1. **General.** The City council may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions wherever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity, convenience, and general welfare require such amendment. However, no amendment shall become effective unless it be first submitted to and approved by the planning commission, or if disapproved, shall receive the favorable vote of a majority of the entire membership of the chief legislative body.
2. **Initiation of Amendment.** Amendments may be initiated by the City council, the planning commission, or by all of the owners of property affected by the proposed amendment. An application by an individual for an amendment shall be accompanied by a fee of twenty-five (\$25.00) dollars payable to the City of Ducktown. The application shall be made on the form in the appendix and shall also be accompanied by maps, drawings, two (2) petitions signed by the adjoining property owners, and data necessary to demonstrate that the proposed amendment is in general conformance with the General Plan of the City of Ducktown and that public necessity, convenience, and general welfare, require the adoption of the proposed amendment. An accurate legal description and scale drawing of the land and existing buildings shall be submitted with the application.
3. **Review and Recommendation by the Planning Commission.** The Ducktown Municipal Planning Commission shall review and make recommendations to the Board of Mayor and Commissioners on all proposed amendments to the ordinance.
4. **Grounds for an Amendment.** The planning commission in its review and recommendation, and the City council in its deliberations, shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:
 - a. The amendment is in agreement with the general plan for the area.
 - b. It has been determined that the legal purposes for which zoning exists are not contravened.
 - c. It has been determined that there will be adverse effects upon adjoining property owners unless such adverse affect can be justified by the overwhelming public good or welfare.

- d. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.
 - e. It has been determined that conditions affecting the area have changed to a sufficient extent to warrant an amendment to the area's general plan, and consequently, the zoning map.
5. **Public Hearing and Notice of Hearing.** A public hearing shall be held on all proposed amendments to this ordinance. Notice of such hearing shall be in a newspaper of general circulation within the City of Ducktown at least fifteen (15) days prior to the public hearing. This notice shall specify the location, current and proposed zoning classification, and it may contain a graphic illustration of the area.
6. **Notice of Enactment.** Upon enactment of an amendment to the ordinance, a written notice of such shall be published in a newspaper of general circulation within the City of Ducktown within five (5) working days following such enactment announcing the new zoning classification of property affected. The change shall become effective upon the date of the announcement.
7. **Amendments Affecting Zoning Map.** Upon enactment of an amendment to the zoning map which is part of this ordinance, the zoning administrator shall cause such amendment to be placed upon the zoning map. Such amendment shall not become effective until this action is accomplished.
8. **Effect of Denial of Application.** Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial, except in the following cases.
- a. Upon initiation by the City council, or planning commission;
 - b. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;
 - c. When the previous application was denied for the reason that the proposed zoning would not conform with the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

12.10. Remedies.

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the building inspector or any other appropriate authority or any adjacent or neighborhood property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

12.11. Penalties for Violations.

Upon conviction, any person violating any provision of this ordinance shall be fined not less than two (\$2.00) dollars nor more than fifty (\$50.00) dollars for each offense. Each day such violations continue shall constitute a separate offense.

12.12. Conflict with Other Regulations.

Whenever the regulations of this ordinance require more restrictive standards than are required in or under any other statute; the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards that are required by this ordinance, the provisions of such statute shall govern.

12.13. Separability.

Should any action or provisions of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the facility of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

12.14. Effective Date.

This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it. (as added by Ord. #67, Feb. 2011)

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

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

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

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic control signs, etc.
- 15-108. General requirements for traffic control signs, etc.
- 15-109. Unauthorized traffic control signs, etc.
- 15-110. School safety patrols.
- 15-111. Driving through funerals or other processions.
- 15-112. Clinging to vehicles in motion.
- 15-113. Riding on outside of vehicles.
- 15-114. Backing vehicles.
- 15-115. Projections from the rear of vehicles.
- 15-116. Causing unnecessary noise.
- 15-117. Vehicles and operators to be licensed.
- 15-118. Passing.
- 15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-120. Delivery of vehicle to unlicensed driver, etc.
- 15-121. Compliance with financial responsibility law required.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

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

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

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

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

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

(c) Upon a roadway designated and signposted by the city for one-way traffic.

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

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the

left of such yellow line except when necessary to make a lawful left turn from such street.

15-107. Miscellaneous traffic control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-108. General requirements for traffic control signs, etc. Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways,² and shall be uniform as to type and location throughout the city.

15-109. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-110. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-111. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive

¹Municipal code references

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

²For the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.

between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-112. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place.

15-113. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks.

15-114. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-115. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle.

15-116. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

15-117. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988."

15-118. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the

overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

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

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

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

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

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)--(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 ½") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provisions in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

15-120. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Ducktown unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

15-121. Compliance with financial responsibility law required.

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

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

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

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

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

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of compliance with this section at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

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

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

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's own reckless disregard for the safety of others.

15-203. Following emergency vehicles. No driver of any vehicle other than one on official business shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

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

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of twenty (20) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (Ord. #26, March 1952, modified)

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

15-303. In school zones. Pursuant to Tennessee Code Annotated, § 55-8-152, the city shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

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

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. Every driver who intends to 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 Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

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

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

15-405. U-turns. U-turns are prohibited.

CHAPTER 5**STOPPING AND YIELDING****SECTION**

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic control signals generally.
- 15-507. At flashing traffic control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto 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.

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed.

15-503. At railroad crossings. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

- (a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
- (c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if 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 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.

15-505. At "yield" signs. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section 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.

15-506. At traffic control signals generally. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

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

(2) Yellow alone, or "Caution", when shown following the green or "Go" signal:

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

(b) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Red alone, or "Stop":

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

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the city where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn of Red" sign, which may be erected by the city at intersections which the city decides requires no left turns on red in the interest of traffic safety.

(d) The driver of a motorcycle approaching an intersection that is controlled by a traffic-control signal utilizing a vehicle detection device that is inoperative due to the size of the motorcycle shall come to a full and complete stop at the intersection and, after exercising due care as provided by law, may proceed with due caution when it is safe to do so. It is not a defense to § 15-106, "At traffic control signals generally," that the driver of a motorcycle proceeded under the belief that a traffic-control signal utilized a vehicle detection device or was inoperative due to the

size of the motorcycle when such signal did not utilize a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(4) Steady red with green arrow:

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

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

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

15-507. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

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

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code.

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) Walk. Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed

crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

15-509. Stops to be signaled. Every driver operating a motor vehicle who intends to stop such vehicle, 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 the signal required in Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.

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

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

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

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

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

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21.

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

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the city, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters

where the same have been installed by the city. The presumption shall be that all installed parking meters were lawfully installed by the city.

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon.

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked.

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters.

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter.

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States.

15-612. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking.

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver license in lieu of bail.
- 15-707. Violation 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.

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.

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title

for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

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

15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq.

15-707. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within thirty (30) days, have the

charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be ten dollars (\$10.00).

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

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Violations and penalty.

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

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

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

¹Municipal code reference

Motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.

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

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

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

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

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

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city recorder.

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

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

16-113. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 2

EXCAVATIONS

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violation and penalty.

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

16-202. Applications. Applications for such permits shall be made to the city manager, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00).

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city manager a cash deposit.

The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city manager may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored. Those doing continual work in the city must maintain a balance of one thousand (1,000) dollars on an ongoing basis.

In lieu of a deposit the applicant may deposit with the city recorder a surety bond in such form and amount as the city manager shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration.

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

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

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 city manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$130,000 for each person and \$350,000 for each accident, and for property damages not less than \$50,000 for any one (1) accident, and a \$75,000 aggregate.

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

16-209. Supervision. The person designated by 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 city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences.

16-210. Violation and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-110. Violations and penalty.

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

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

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

¹Municipal code reference

Property maintenance regulations: title 13.

mechanically, the combined weight of any refuse container and its contents shall not exceed thirty-five (35) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than thirty-five (35) pounds each and being not more than two (2) feet thick before being deposited for collection.

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

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

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the mayor. Collections shall be made regularly in accordance with an announced schedule.

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

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of commissioners is expressly prohibited.

17-109. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the board of commissioners by resolution.¹

17-110. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Administrative resolutions are of record in the office of the city clerk.

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWER SERVICE.

CHAPTER 1

WATER AND SEWER SERVICE

SECTION

18-101. To be furnished by Copper Basin Utility District.

18-101. To be furnished by Copper Basin Utility District. Water and sewer service shall be provided to the City of Ducktown and its inhabitants by the Copper Basin Utility District. The rights, powers, duties, and obligations of the City of Ducktown and its inhabitants, are stated in the agreements between the parties.²

¹Municipal code references
Refuse disposal: title 17.

²The agreements are of record in the office of the clerk.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Tri-State Electric Co-op.

19-101. To be furnished by Tri-State Electric Co-op. Electricity shall be provided to the City of Ducktown and its inhabitants by the Tri-State Electric Co-op. The rights, powers, duties, and obligations of the City of Ducktown and its inhabitants, are stated in the agreements between the parties.¹

¹The agreements are of record in the office of the clerk.

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

APPENDIX A

OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR
EMPLOYEES OF THE CITY OF DUCKTOWN

- I. Purpose and coverage.
- II. Definitions.
- III. Employer's rights and duties.
- IV. Employee's rights and duties.
- V. Administration.
- VI. Standards authorized.
- VII. Variance procedure.
- VIII. Recordkeeping and reporting.
- IX. Employee complaint procedure.
- X. Education and training.
- XI. General inspection procedures.
- XII. Imminent danger procedures.
- XIII. Abatement orders and hearings.
- XIV. Penalties.
- XV. Confidentiality of privileged information.
- XVI. Compliance with other laws not excused.

APPENDICES

- I. Organizational chart
- II. Safety and health organizational chart
- III. Employee notification
- IV. Program budget
- V. Accident reporting procedures

I. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Ducktown.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Ducktown in electing to update and maintain an effective occupational safety and health program for its employees:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the

Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (Ord. #759, July 2003)

II. Definitions. For the purposes of this program, the following definitions apply:

- a. "Act" or "TOSHA Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- b. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- c. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.
- d. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and

Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- e. "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program for the employees of the City of Ducktown.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "Employer" means the City of Ducktown and includes each administrative department, board, commission, division, or other agency of the City of Ducktown.
- h. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- i. "Governing body" means the County Quarterly Court, board of commissioners, city council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- j. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- k. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.
- l. "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.
- m. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially

reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- n. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (Ord. #759, July 2003)

III. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program. (Ord. #759, July 2003)

IV. Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHA Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

- g. Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (Ord. #759, July 2003)

V. Administration. a. The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

- 1. The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
- 2. The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.
- 3. The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
- 4. The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.

5. The director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of section 1 of this plan.
 6. The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The director shall maintain or cause to be maintained records required under section VIII of this plan.
 9. The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V of this plan. (Ord. #759, July 2003)

VI. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI(6) of

the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. (Ord. #759, July 2003)

VII. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

1. The employer:
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective program for coming into compliance with the standard as quickly as possible.
2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section). (Ord. #759, July 2003)

VIII. Recordkeeping and reporting. a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970, (revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

- b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this plan. (Ord. #759, July 2003)

IX. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will

affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section 1 of this plan).

- b. Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request. (Ord. #759, July 2003)

X. Education and training. a. Director and/or compliance inspector(s).

1. Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
 2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All employees (including managers and supervisory personnel).

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries [e.g., trench cave-ins], and being struck by material or equipment).
2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHA Act Standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or

- has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
- ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (Ord. #759, July 2003)

XI. General inspection procedures. It is the intention of the governing body and the responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigate techniques.
- g. Advance notice of inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees of their authorized representative(s) will also be given notice of the inspection.
- h. The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors of other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.
 - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.
- i. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative. (Ord. #759, July 2003)

XII. Imminent danger procedures.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
1. The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.
- b. Refusal to abate.
1. Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.
 2. The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (Ord. #759, July 2003)

XIII. Abatement orders and hearings.

- a. Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:
 - 1. Issue an abatement order to the head of the worksite.
 - 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 - 1. The standard, rule, or regulation which was found to be violated.
 - 2. A description of the nature and location of the violation.
 - 3. A description of what is required to abate or correct the violation.
 - 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (Ord. #759, July 2003)

XIV. Penalties.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 - 1. Oral reprimand.
 - 2. Written reprimand.
 - 3. Suspension for three (3) or more working days.
 - 4. Termination of employment. (Ord. #759, July 2003)

XV. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (Ord. #759, July 2003)

XVI. Compliance with other laws not excused.

- a. Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.
- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (Ord. #759, July 2003)

ORGANIZATIONAL CHART

APPENDIX I

[For this section make a list of each work location wherein city employees work, such as city hall, water plant, police department, city garage, etc.), the address for the workplace, phone number at that workplace, and number of employees who work there.]

Example:

City Garage - 12 employees
1234 Main Street
_____, TN 37415
423-555-1234

Police Department - 25 employees
4567 Garden Avenue
_____, TN 37415
423-555-5678

TOTAL NUMBER OF EMPLOYEES: 37

[Once each work location has been listed, record the total number of employees that the city employs.]

SAFETY AND HEALTH ORGANIZATIONAL CHART
CITY OF DUCKTOWN
APPENDIX II

Police Department - 20 employees
208 Monroe Street
Ducktown, TN 37874
(423) 555-7890

Fire Department - 12 employees

Fire Hall #1
208 Monroe Street
Ducktown, TN 37874
(423) 555-2345

Fire Hall #2
305 E. Walnut St.
Ducktown, TN 37874
(423) 555-6789

City Garage - 12 employees
321 S. High Street
Ducktown, TN 37874
(423) 555-0123

Recreation Work Center - 5 employees
134 Starrett Street
Ducktown, TN 37874
(423) 555-4507

City Hall - 5 employees
203 Monroe Street
Ducktown, TN 37874
(423) 555-8901

Total Number of Employees: 54

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

APPENDIX III

NOTICE TO ALL EMPLOYEES OF THE CITY OF DUCKTOWN

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or _____.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before _____ for assistance in obtaining relief or to file a complaint with the commissioner of labor and workforce development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the employees of the City of Ducktown is available for inspection by any employee at _____ office during regular office hours.

Signature: Official

Date

OCCUPATIONAL SAFETY AND HEALTH PLAN
PROGRAM BUDGET

APPENDIX IV

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the program.
11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM FUNDING

Estimate of Total Budget for the City of Ducktown \$652.00

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
ACCIDENT REPORTING PROCEDURES

APPENDIX V

Note: All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported by phone to the commissioner of labor and workforce development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system:

1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
4. Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
5. Retain these records for at least 5 years.
6. Complete the Survey of Occupational Injuries/Illness and mail it to Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the chief executive officer but excluding the governing body (county court, city council, board of directors, etc.).

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with assistance of the Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident

occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers' Compensation Form C20 or OSHA NO. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 6 listed under **PROGRAM PLAN** in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the **one** procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation.

ORD-1

ORDINANCE NO. 59**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF DUCKTOWN, TENNESSEE.**

WHEREAS some of the ordinances of the City of Ducktown 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 Ducktown, 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 "Ducktown Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF DUCKTOWN, AS FOLLOWS:¹

Section 1. Ordinances codified. The ordinances of the City of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Ducktown 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 installments, see Tennessee Code Annotated, § 40-24-101 et seq.

ORD-3

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 city clerk's office for public use and inspection at all reasonable times.

ORD-4

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 Sept. 6th, 2007.

Passed 2nd reading Oct. 4th, 2007.



Mayor



City Clerk