

**THE
ESTILL SPRINGS
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

December 2017

Change 1
December 1, 2022

TOWN OF ESTILL SPRINGS, TENNESSEE

MAYOR

James David Kelley

VICE MAYOR

Earl Davis

ALDERMEN

Troy Jernigan
Bobby Taylor
Patrick Thomas

RECORDER

Tina Smith

PREFACE

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

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

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

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town'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 town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town 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 Nancy Gibson of the codes team is gratefully acknowledged.

Kelley Myers, ACP
Municipal Codes Coordinator

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

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted in one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)

2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

*Change 1
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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

¹Charter references

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

Municipal code references

Building and plumbing inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Terms of office and date of election.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the first Thursday of each month at the municipal meeting room. (1997 Code, § 1-101, modified)

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

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

¹Charter references

For charter provisions related to the board of mayor and aldermen, see *Tennessee Code Annotated*, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

- Town administrator: § 6-4-101.
- Compensation: § 6-3-109.
- Duties of mayor: § 6-3-106.
- Election of the board: § 6-3-101.
- Oath: § 6-3-105.
- Ordinance procedure
 - Publication: § 6-2-101.
 - Readings: § 6-2-102.
- Residence requirements: § 6-3-103.
- Vacancies in office: § 6-3-107.
- Vice-mayor: § 6-3-107.

- (6) Reports from committees, members of the board of mayor and aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1997 Code, § 1-102)

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 mayor and aldermen 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. (1997 Code, § 1-103)

1-104. Terms of office and date of election.¹ (1) At the election in October 2001, the two (2) aldermanic terms shall be from that date until the first Thursday in August 2005 and thereafter for four-year terms.

(2) The mayor and aldermen whose terms of office would have expired in October 2002 will be extended to the first Thursday of August 2003 and thereafter for four (4) year terms. (1997 Code, § 1-104)

¹State law reference

Tennessee Code Annotated, § 6-3-102 authorizes the board to establish four (4) year staggered terms and change the date of the town election.

CHAPTER 2**MAYOR¹****SECTION**

1-201. Generally supervises municipality's affairs.

1-202. Executes municipality's contracts.

1-201. Generally supervises municipality's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1997 Code, § 1-201)

1-202. Executes municipality's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1997 Code, § 1-202)

¹Charter references

For charter provisions related to the mayor, see *Tennessee Code Annotated*, title 6, chapter 3. For specific charter provisions related to the mayor, see the following sections:

Vacancies in office: § 6-3-107.

Vice-mayor: § 6-3-107.

CHAPTER 3**RECORDER¹****SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen. (1997 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1997 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the municipality which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall keep the original volume of the Estill Springs Municipal Code in his custody at all times except in those instances where it is required for litigation in courts. He shall also be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1997 Code, § 1-303)

¹Charter references

Town recorder: § 6-4-201 *et seq.*

Recorder as treasurer: § 6-4-401(c).

Recorder as judge: § 6-4-301(b)(1)(C).

CHAPTER 4

CODE OF ETHICS¹

SECTION

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

1-401. Applicability. This chapter is the code of ethics for personnel of the Town of Estill Springs. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the town. The words "municipal" and "town" or "Town of Estill Springs" include these separate entities. (Ord. #12-394, Oct. 2012)

1-402. Definition of "personal interest." (1) For purposes of §§ 4-103 and 4-104, "personal interest" means:

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 *et seq.*

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 *et seq.*

Crimes of official misconduct, official oppression, misuse of official information: T.C.A., § 39-16-401 *et seq.*

Ouster law: T.C.A., § 8-47-101 *et seq.*

(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. #12-394, Oct. 2012)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (Ord. #12-394, Oct. 2012)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #12-394, Oct. 2012)

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

(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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #12-394, Oct. 2012)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #12-394, Oct. 2012)

1-407. 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 board of mayor and aldermen to be in the best interests of the town. (Ord. #12-394, Oct. 2012)

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

(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 town. (Ord. #12-394, Oct. 2012)

1-409. Outside employment. A full-time employee of the town may not accept any outside employment without written authorization from the department head. (Ord. #12-394, Oct. 2012)

1-410. Ethics complaints. (1) The town attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town 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 town 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 Town attorney may request the board of mayor and aldermen 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 town's mayor and board of aldermen, the mayor and board of aldermen 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 board determines that a complaint warrants further investigation, it shall authorize an investigation by the town attorney or another individual or entity chosen by the board of mayor and aldermen.

(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. #12-394, Oct. 2012)

1-411. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #12-394, Oct. 2012)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER****1. RECREATION COMMISSION.****CHAPTER 1****RECREATION COMMISSION****SECTION**

2-101. Commission established.

2-102. Commission to elect its officers.

2-103. Powers and duties of commission.

2-101. Commission established. There is hereby established a recreation commission. This commission shall consist of five (5) members serving without pay who shall be appointed by the mayor. The term of appointment for each member shall be five (5) years or until their successors are appointed. (1997 Code, § 2-101, modified)

2-102. Commission to elect its officers. Immediately after their appointment, the members shall meet and organize by electing a chairman, vice-chairman and executive secretary and adopting by-laws, rules and regulations as may be necessary. The commission shall have the power to jointly provide, maintain and conduct recreational activities with other commissions under *Tennessee Code Annotated*, § 11-24-105. They may and are urged to meet with other recreation commissions to discuss the feasibility of said joint action, and upon reaching a "memorandum of agreement" shall so proceed in that manner to meet the requirements of this chapter. (1997 Code, § 2-102)

2-103. Powers and duties of commission. (1) The recreation commission is hereby vested and shall so exercise the power to provide, conduct and maintain a supervised recreation system and facilities that will employ the leisure time of the people in a constructive and wholesome manner. This shall be accomplished on any or all property owned by the board of mayor and aldermen not in inconsistent use, or by suitable agreement for joint usage with another agency, or on other properties with the consent of the owners and authorities thereof or by lease arrangement including federal or state agencies.

Provided however, any expenditure of town funds, commitment of town resources, or contracts with third parties must receive prior approval of the board of mayor and aldermen. All property acquired through the efforts of the recreation commission will remain property of the Town of Estill Springs.

(2) Annually the recreation commission shall submit a budget to the board of mayor and aldermen for its approval. This budget shall be in detail showing the proposed projects and plans for the ensuing year, degree of matching effort for citizen groups, and shall show amount for salary, operating expenses, and capital improvements.

(3) The recreation commission shall develop its recreational facilities and program in cooperation with voluntary citizen groups. A suitable arrangement shall be made classifying proposed projects with degree of matching effort desired from the respective citizen group requesting recreational facilities and program. This matching effort shall include finance and facilities and material and volunteer workers to assist supervision in conducting recreational programs.

The commission may also solicit or receive any gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for facilities or recreational purposes. All funds received by the commission shall be deposited with the town, and any expenditure of said funds shall first receive approval from the board of mayor and aldermen.

(4) The recreation commission shall make full and complete monthly and annual reports to the board of mayor and aldermen and other reports from time to time as requested. (1997 Code, § 2-103)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

3-101. Town judge.

3-101. Town judge. The officer designated by the charter to handle judicial matters within the municipality shall preside over the town court and shall be known as the town judge. (1997 Code, § 3-101)

¹Charter reference

Town judge–Town court: § 6-4-301.

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Failure to appear in municipal court and penalty therefor.
- 3-207. Litigation tax.
- 3-208. Deleted.

3-201. Maintenance of docket. The court clerk shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1997 Code, § 3-201)

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

In all cases heard and determined by him, the town judge shall impose court costs in the amount of one hundred six dollars (\$106.00). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal judges and municipal court clerks. (Ord. #15-611, June 2015, modified, as replaced by Ord. #20-440, June 2020 *Ch1_12-01-22*)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1997 Code, § 3-203)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1997 Code, § 3-205)

3-205. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1997 Code, § 3-206)

3-206. Failure to appear in municipal court and penalty therefor. Any person who intentionally, knowingly or willingly fails to appear in the municipal court on the date and time specified on a citation or other process issued from the municipal court is guilty of a separate municipal offense, and upon being found guilty shall be punished by a fine of not more than fifty dollars (\$50.00).

3-207. Litigation tax. (1) Effective on the first day of the month following the passage of this section, a town litigation tax shall become effective as follows:

On cases in town court there is hereby levied a town litigation tax to match the state litigation tax of thirteen dollars seventy-five cents (\$13.75).

(2) The privilege taxes levied pursuant to this section shall be paid to the town recorder monthly to be used to assist in paying for the operation of the town court and for the police department. (1997 Code, § 3-208)

3-208. Deleted. (Ord. #15-410, June 2015, as deleted by Ord. #20-440, June 2020 *Ch1_12-01-22*)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-301. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, issue a summons ordering the alleged offender to personally appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1997 Code, § 3-302, modified)

3-302. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1997 Code, § 3-303)

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals and bond amounts.

3-402. Bond conditions.

3-401. Appeals and bond amounts.¹ Notwithstanding any law to the contrary, any person dissatisfied with the judgment of a municipal court, in any case or cases heard and determined by the court acting pursuant to *Tennessee Code Annotated*, § 16-18-302(a), may, within ten (10) days thereafter, Sundays exclusive, appeal to the circuit court of the county, upon giving bond in the amount of two hundred fifty dollars (\$250.00) for the person's appearance and the faithful prosecution of the appeal. As used in this section, person includes, but is not limited to, a natural person, corporation, business entity or the municipality.

3-402. Bond conditions.² In all cases of bonds, for the prosecution of original suits, or where security is taken or recorded in any court, sufficient security shall be taken by the clerk to pay all costs that may be at any time adjudged against the principal, in the event they are not paid by the principal. Notwithstanding any other law to the contrary, where an attorney undertakes to serve as surety after July 1, 1999, such surety shall only be obligated for amounts required by law or included in the clerk's bill of costs, and shall not be responsible for discretionary costs. In such instances, the clerk may require an additional surety other than the attorney as may be necessary to secure payment for discretionary costs.

¹State law reference
Tennessee Code Annotated, § 16-18-307

²State law reference
Tennessee Code Annotated, § 20-12-125

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

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

CHAPTER 1**PERSONNEL SYSTEM****SECTION**

- 4-101. Purpose.
- 4-102. Coverage.
- 4-103. Administration.
- 4-104. Personnel rules and regulations.
- 4-105. Records.
- 4-106. Right to contract for special services.
- 4-107. Discrimination.

4-101. Purpose. The purpose of this chapter is to establish a system of personnel administration in the Town of Estill Springs that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability. (1997 Code, § 4-201)

4-102. Coverage. All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the town's service, unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are as follows:

- (1) All elected officials;
- (2) Members of appointed boards and commissions;
- (3) Consultants, advisers, and legal counsel rendering temporary professional service;
- (4) Town attorney;
- (5) Independent contractors;

- (6) People employed by the municipality for not more than three (3) months during a fiscal year;
- (7) Part-time employees paid by the hour or the day, and not considered regular;
- (8) Volunteer personnel appointed without compensation; and
- (9) Town judge.

All employment positions of the municipal government not expressly exempt from coverage by this section shall be subject to the provisions of the town charter. (1997 Code, § 4-202)

4-103. Administration. The personnel system shall be administered by the mayor, who shall have the following duties and responsibilities:

- (1) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the town charter, and federal and state laws relating to personnel administration;
- (2) Recommend to the board of mayor and aldermen policies and procedures for recruiting, appointing, and disciplining all employees of the municipality subject to those policies as set forth in this chapter, the town charter, and the municipal code;
- (3) Fix and establish the number of employees in the various town departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies as set forth in the town charter and code, and subject to the approval of the board of mayor and aldermen and budget limitations;
- (4) Foster and develop programs for improving employee effectiveness, including training, safety, and health;
- (5) Maintain records of all employees, subject to the provisions of this chapter of the town code, which shall include each employee's class, title, pay rates, and other relevant data;
- (6) Make periodic reports to the board of mayor and aldermen regarding administering the personnel system;
- (7) Prepare and recommend to the board of mayor and aldermen a pay plan for all municipal government employees;
- (8) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government;
- (9) Be responsible for certification of payrolls; and
- (10) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law. (1997 Code, § 4-203)

4-104. Personnel rules and regulations. The mayor shall develop a set of personnel rules and regulations necessary for effectively administering the personnel system. Said rules shall be adopted by board of mayor and aldermen

via ordinance. Amendments to the personnel rules and regulations shall be made via ordinance adopted by the board during a public meeting. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their job than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees. (1997 Code, § 4-204, modified)

4-105. Records. The mayor, or his designee, shall maintain adequate records of the employment record of every employee as specified herein. (1997 Code, § 4-205)

4-106. Right to contract for special services. The board of mayor and aldermen may contract with any competent agency for performing such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (1997 Code, § 4-206)

4-107. Discrimination. No person in the classified service or seeking admission thereto shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, creed, national origin, gender, age, religious belief, or disability. (1997 Code, § 4-207)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-201. Title.
- 4-202. Purpose.
- 4-203. Coverage.
- 4-204. Standards authorized.
- 4-205. Variances from standards authorized.
- 4-206. Administration.
- 4-207. Funding the program.

4-201. Title. This section shall be known as "the occupational safety and health program plan" for the employees of the Town of Estill Springs. (Ord. #13-397, April 2013, as replaced by Ord. #20-438, April 2020 *Ch1_12-01-22*)

4-202. Purpose. The board of mayor and aldermen in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

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

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

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

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #13-397, April 2013, as replaced by Ord. #20-438, April 2020 *Ch1_12-01-22*)

4-203. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of Town of Estill Springs shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #13-397, April 2013, as replaced by Ord. #20-438, April 2020 *Ch1_12-01-22*)

4-204. Standards authorized. The occupational safety and health standards adopted by the Town of Estill Springs are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972. (*Tennessee Code Annotated*, title 50, chapter 3). (Ord. #13-397, April 2013, as replaced by Ord. #20-438, April 2020 *Ch1_12-01-22*)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by *Tennessee Code Annotated*, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #13-397, April 2013, as replaced by Ord. #20-438, April 2020 *Ch1_12-01-22*)

4-206. Administration. For the purposes of this chapter, department heads are designated as the Safety Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and

Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by *Tennessee Code Annotated*, title 50. (Ord. #13-397, April 2013, as replaced by Ord. #20-438, April 2020 ***Ch1_12-01-22***)

4-207. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Estill Springs. (Ord. #13-397, April 2013, as replaced by Ord. #20-438, April 2020 ***Ch1_12-01-22***)

CHAPTER 3

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Definitions.
- 4-305. Policy statement.
- 4-306. General guidelines.
- 4-307. Hepatitis B vaccinations.
- 4-308. Reporting potential exposure.
- 4-309. Hepatitis B virus post-exposure management.
- 4-310. Human immunodeficiency virus post-exposure management.
- 4-311. Disability benefits.
- 4-312. Training regular employees.
- 4-313. Training high risk employees.
- 4-314. Training new employees.
- 4-315. Records and reports.
- 4-316. Legal rights of victims of communicable diseases.

4-301. Purpose. It is the responsibility of the Town of Estill Springs 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 Town of Estill Springs, 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).

4-302. 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.

4-303. 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 town 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 mayor and aldermen 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 mayor and aldermen.

4-304. 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.

4-305. 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.

4-306. 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 town 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 thirty (30) seconds. A solution must be changed and re-mixed every twenty-four (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 one hundred twenty degrees (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 feet (5') 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.

4-307. Hepatitis B vaccinations. The Town of Estill Springs 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.

4-308. Reporting potential exposure. Town 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.

4-309. 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 (ie., 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.

4-310. 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 twelve (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 six (6) weeks, twelve (12) weeks, and six (6) months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first six to twelve (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 twelve (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 town to all workers who may be concerned they have been infected with HIV through an occupational exposure.

4-311. 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.

4-312. 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.

4-313. 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.

4-314. 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.

4-315. 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 town 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.

4-316. 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 town attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the town 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 town 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 4

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-401. Purpose.
- 4-402. Enforcement.
- 4-403. Travel policy.
- 4-404. Travel reimbursement rate schedule.
- 4-405. Administrative procedures.

4-401. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with Public Acts 1993, chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular town employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense.

4-402. Enforcement. The Chief Administrative Officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (1997 Code, § 4-501)

4-402. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" 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 town 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 town. 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 chief administrative officer. 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 town for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the chief administrative officer 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 town business for which travel was authorized, and

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

The chief administrative officer may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

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

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

(9) Mileage and motel expenses incurred within the town are not ordinarily considered eligible expenses for reimbursement. (1997 Code, § 4-502)

4-403. Travel reimbursement rate schedule. Authorized travelers shall be reimbursed according to the federal travel regulation rates. The town's travel reimbursement rates will automatically change when the federal 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. (1997 Code, § 4-503)

4-404. Administrative procedures. The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the recorder. (1997 Code, § 4-504)

CHAPTER 5

PERSONNEL POLICY

SECTION

4-501. Personnel regulations.

4-501. Personnel regulations. The personnel policy manual for the Town of Estill Springs is adopted by reference herein as if set out verbatim.¹

¹Ordinance #15-409 (and any amendments) adopts the personnel regulations for the Town of Estill Springs. It is available for viewing in the office of the recorder.

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING.
6. PROCUREMENT POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for town funds.
- 5-102. Absentee by mail ballot voting procedures for non-resident property owners.

5-101. Official depository for town funds. The following financial institutions are hereby designated for municipal funds:

- (1) American City Bank;
- (2) Citizens Community Bank;
- (3) First Vision Bank of Tennessee;
- (4) Citizens Tri-County Bank;
- (5) SunTrust Bank;
- (6) Traders National Bank;
- (7) US Bank. (1997 Code, § 5-101, modified)

5-102. Absentee by mail ballot voting procedures for non-resident property owners. All persons residing outside the corporate limits of the Town of Estill Springs who own real property within the corporate limits of the Town of Estill Springs and who are entitled to vote in Town of Estill Springs municipal elections pursuant to *Tennessee Code Annotated*, § 6-53-102, and other general law requirements, shall cast their ballot in Town of Estill Springs municipal elections by absentee by mail ballots. (Ord. #14-402, March 2014)

¹Charter references

For specific charter provisions on depositories of municipal funds, see *Tennessee Code Annotated*, § 6-4-402.

Municipal code reference

Litigation tax: § 3-208.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

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

5-201. When due and payable.¹ Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. Taxes shall be paid directly to the Town of Estill Springs. (1997 Code, § 5-201, modified)

5-202. When delinquent--penalty and interest.² All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to a one (1) time ten percent (10%) penalty and one percent (1%) interest per month assessed on the first day of each month until paid.³ (1997 Code, § 5-202)

¹State law references

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

²Charter and state law reference

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

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) ways:

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

(continued...)

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 municipality at the rates and in the manner prescribed by the act. (The minimum payment shall be fifteen dollars (\$15.00.) (1997 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1997 Code, § 5-302, modified)

³(...continued)
§ 67-5-2005.

CHAPTER 4**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6. (1997 Code, § 5-401, modified)

CHAPTER 5

PURCHASING

SECTION

- 5-501. Purchase orders required.
- 5-502. Department head approval.
- 5-503. Alderman approval.
- 5-504. Mayoral approval.
- 5-505. Mayor and aldermen approval.
- 5-506. Quotes required.
- 5-507. Public advertisement required.
- 5-508. Re-occurring purchases.
- 5-509. Emergency purchases.

5-501. Purchase orders required. All purchases over one hundred dollars (\$100.00) must be accompanied by a purchase order number. (Ord. #15-415, Jan. 2016)

5-502. Department head approval. All department heads are hereby authorized to approve, by signing a purchase order, any expenditure not to exceed five hundred dollars (\$500.00). (Ord. #15-415, Jan. 2016)

5-503. Alderman approval. All aldermen are hereby authorized to approve, by signing a purchase order, any purchase not to exceed one thousand five hundred dollars (\$1,500.00). (Ord. #15-415, Jan. 2016)

5-504. Mayoral approval. The mayor is hereby authorized to approve, by signing a purchase order, any purchase over one thousand five hundred dollars (\$1,500.00) up to five thousand dollars (\$5,000.00). (Ord. #15-415, Jan. 2016)

5-505. Mayor and aldermen approval. Any nonemergency purchase over five thousand dollars (\$5,000.00) up to ten thousand dollars (\$10,000.00) must be brought before a quorum of the board of mayor and aldermen for approval. (Ord. #15-415, Jan. 2016)

5-506. Quotes required. Whenever possible, at least two (2) quotes are required for purchases over one thousand dollars (\$1,000.00) up to ten thousand dollars (\$10,000.00); public advertisement or competitive bidding is not required. (Ord. #15-415, Jan. 2016)

5-507. Public advertisement required. Public advertisement and competitive bidding is required for all purchases of goods and services exceeding ten thousand dollars (\$10,000.00). (Ord. #15-415, Jan. 2016)

5-508. Re-occurring purchases. Re-occurring purchases such as gasoline, diesel, water treatment chemicals/supplies and other ordinary purchases of supplies and maintenance materials will not be included in the limits listed above as they are required for daily operation of the town. (Ord. #15-415, Jan. 2016)

5-509. Emergency purchases. Emergency purchases exist when there is a threat to public health, welfare or safety and are exempt from the competitive bid and quote process. In the event of an emergency, any alderman that is readily available would be authorized to approve a purchase no matter which department is affected. (Ord. #15-415, Jan. 2016)

CHAPTER 6

PROCUREMENT POLICY

SECTION

- 5-601. Introduction and purpose.
- 5-602. Code of conduct.
- 5-603. Procurement requirements and considerations.
- 5-604. Procurement methods.
- 5-605. Procurement procedures.
- 5-606. Contract provisions.
- 5-607. Documentation.
- 5-608. Compliance with this policy.

5-601. Introduction and purpose. In keeping with its commitment to maintaining the highest standards of conduct and ethics, Town of Estill Springs ("FFR") has adopted this procurement policy ("policy") to ensure that goods and services purchased by FFR are obtained in a cost-effective manner and in compliance with applicable federal and state laws.

The acquisition processes described in this policy apply to all purchases made by

- (1) FFRs purchasing department, and
- (2) FFR programs independent of the purchasing department by employees, directors, officers, or agents (together, "FFR purchasers").

Purchases may also be subject to prior funding source approval and additional requirements imposed by grants or contracts. Program directors are responsible for reviewing any such additional requirements, bringing them to the attention of the purchasing department, and ensuring that contractors and vendors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-602. Code of conduct. (1) FFR purchasers shall not participate in the selection, award, or administration of a contract if they have a real or apparent conflict of interest. Such a conflict arises when:

(a) The FFR purchaser; any immediate family member (spouse, child, parent, parent-in-law, sibling, or sibling-in-law); partner; or an organization that employs, or is about to employ, any of the above has a direct or indirect financial or other interest in or will receive a tangible personal benefit from a firm or individual considered for the contract award.

(b) An "organizational "conflict of interest" is created because of a relationship FFR has with a parent, affiliate, or subsidiary

organization that is involved in the transaction such that FFR is or appears to be unable to be impartial in conducting a procurement action involving the related organization.

(2) FFR purchasers shall not solicit or accept gifts, money, gratuities, favors, or anything of monetary value, except unsolicited items or services of nominal value from vendors, prospective vendors, parties to subcontracts, or any other person or entity that receives, or may receive, compensation for providing goods or performing services for FFR.

(3) All FFR purchasers shall review and comply with the FFR's procedures for disclosing, reviewing, and addressing actual and potential conflicts of interest.

(4) Failure to adhere to the code of conduct may result in disciplinary action taken against the FFR employee, including removal from procurement activities and if necessary, termination. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-603. Procurement requirements and considerations.

(1) Competition. All procurements shall be conducted in a manner that provides, to the maximum extent practical, full and open competition. Procurements shall:

(a) Avoid noncompetitive practices that may restrict or eliminate competition, including but not limited to:

- (i) Unreasonable qualification requirements;
- (ii) Unnecessary experience and excessive bonding requirements;
- (iii) Noncompetitive pricing practices between firms or affiliated companies;
- (iv) Noncompetitive contracts to consultants on retainer contracts.
- (v) Organizational conflicts of interest;
- (vi) Specifying "brand name" only instead of allowing "an equal to" product; and/or
- (vii) Arbitrary actions.

(b) Not intentionally split a single purchase into two (2) or more separate purchases to avoid dollar thresholds that require more formal procurement methods.

(c) Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for a proposal from competing for such procurement.

(d) Include in any prequalified list an adequate number of current, qualified vendors, firms, or products.

(e) Not preclude potential bidders from qualifying during the solicitation period.

(f) Not use any geographic preferences (state, local or tribal) in the evaluation of bids or proposals, except where expressly mandated or encouraged by applicable federal statutes.

(2) Profit. For sole source procurements or when cost analysis is used, profit must be negotiated as a separate element of the procurement price.

(a) To establish a fair and reasonable profit, consider: complexity of work performed, risk borne by contractor, contractor's investment, amount of subcontracting, quality of contractor's record and past performance, and industry profit rates in surrounding geographical area for similar work.

(b) FFR may not use either the cost plus a percentage of cost, or percentage of construction cost methods of contracting.

(3) Minority owned, women owned, and small business vendors. FFR is committed to taking all necessary affirmative steps to assure that minority business, women's business enterprises and labor surplus area firms ("MWSB vendors") are used whenever possible. Such steps include:

(a) Placing qualified MWSB vendors on solicitation lists;

(b) Soliciting MWSB vendors whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MWSB vendors;

(d) Establishing delivery schedules, where requirement permits, which encourage participation by MWSB vendors;

(e) Using services and assistance, as appropriate, of such organizations as Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(f) Requiring the prime contractor, if subcontracts used, to take affirmative steps listed in paragraphs (a) through (e) of this section.

(4) Domestic preference. To the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

(5) Procurement of recovered materials. The FFR will procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, such as transportation, construction, landscaping, and non-paper office products in accordance with the regulations provided in that part. Specifically, the FFR will procure designated materials that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds ten thousand dollars (\$10,000.00) or the value of the quantity acquired during the preceding fiscal year exceeded ten thousand dollars (\$10,000.00). Further, any solid waste management services will be procured in a manner that maximizes energy and resource recovery.

(6) Minimum bonding requirements. For construction or facility improvement contracts or subcontracts exceeding two hundred fifty thousand dollars (\$250,000.00), the requirements for bonding shall, at a minimum, be as follows:

(a) A bid guarantee from each bidder is equivalent to five percent (5%) of the bid price.

(b) A performance bond on the part of the contractor is for one hundred percent (100%) of the contract price.

(c) A payment bond on the part of the contractor is for one hundred percent (100%) of the contract price.

(d) All bonds required in this section are obtained from companies holding certificates of authority as acceptable sureties pursuant to the surety requirements for companies doing business with the United States (31 CFR part 223).

(7) Solicitations. All solicitations shall incorporate a clear and accurate description of the technical requirements for products or services to be procured. Descriptions:

(a) Must not contain features which unduly restrict competition.

(b) May include a statement of the qualitative nature of the material, product or service to be procured.

(c) When necessary, must set forth minimum essential characteristics and standards necessary to satisfy its intended use.

(d) Must avoid detailed product specifications if at all possible.

(e) May use a "brand name or equivalent" description to define performance or other salient requirements when impractical or uneconomical to make a clear and accurate description of technical requirements. Specific named brand features required to be met must be clearly stated.

(f) Must identify all requirements which offerors must fulfill and all other factors to be used in evaluating bids and proposals.

(8) Considerations. FFR Purchasers should consider taking the following actions when procuring goods and services:

(a) Conduct a lease vs. purchase analysis, when appropriate, including for property and large equipment.

(b) Consolidate or break out procurements to obtain a more economical purchase, if possible.

(c) Use state and local intergovernmental or inter-entity agreements, or common or shared goods and services, where appropriate.

(d) Use federal excess and surplus property in lieu of purchasing new equipment and property, if feasible and reduces project costs.

(e) Use value engineering clauses to offer reasonable opportunities for cost reductions in construction contracts for projects of sufficient size.

(f) Use time and materials contracts only if no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at their own risk. If such contract is negotiated and awarded, FFR must assert a high degree of oversight to obtain reasonable assurance that contractor using efficient methods and effective cost controls. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-604. Procurement methods. (1) All procurements. All procurements made under this policy shall:

(a) Be necessary, at a reasonable cost, documented, not prohibited by law or the applicable funding source, and made in accordance with this policy.

(b) Avoid acquiring unnecessary or duplicative items.

(c) Engage responsible vendors who possess the ability to perform successfully under the terms and conditions of a proposed procurement. FFR Purchasers shall consider: vendor integrity, public policy compliance, past performance record and financial and technical resources.

(2) Standard methods. For transactions meeting the specifications set forth in Appendix 1,¹ FFR purchasers shall follow the applicable procurement method set forth therein.

(3) Exceptions to standard methods. (a) Sole source. Procurement by solicitation of a proposal from a single source may only be used if one (1) of the following apply and are documented:

(i) Item is only available from a single source;

(ii) Public exigency or emergency will not permit any delay;

(iii) Federal awarding agency or pass-through expressly authorizes in response to a FFR request; or

(iv) After soliciting a number of sources, competition is determined inadequate.

(4) Intergovernmental agreements preferred. To foster greater economy and efficiency, the FFR is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(5) Use of federal surplus property. The FFR will consider the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

¹Appendixes to the procurement policy are in the office of the recorder.

5-605. Procurement procedures. (1) Frequency of procurement.

(a) Procurement period is the period of time after the initial procurement procedure, i.e., a quote or request for proposals, and before FFR must conduct a new procurement process.

(b) Unless otherwise stated, procurement periods can vary in length.

(c) Factors to consider when setting a procurement period: length of funding source contract, complexity of funding source requirements, type of service to be provided, customization needed.

(2) New procurements. (a) FFR purchaser determines the applicable and appropriate procurement method.

(b) If micro-purchase or small purchase methods are appropriate, conduct procurement as outlined in this policy and retain appropriate documentation of quotes and vendor selection, etc. If prior approval is required for the purchase, refer to step 2.

(c) If sealed or competitive bid methods are required, complete steps 2 through 5 .

(d) If funding source approval is required, work with finance director and/or mayor to obtain. Depending on the procurement method used, FFR purchaser completes bid form and submits to finance director and/or mayor as part of the approval process.

(e) Finance director and/or mayor, FFR purchaser, formalizes the bid packet and submits it to local newspaper.

(f) Depending on thresholds set for board of director's approval, finance director and/or mayor either makes the procurement decision or presents all bid responses to the finance committee of the board of directors.

(g) If the finance committee is involved, it makes a recommendation on awarding the bid to the board of directors. Bid award is reviewed and voted on by the board of directors and noted in board minutes.

(3) Extending/modifying existing contracts. (a) For procurements greater or less than two hundred fifty thousand dollars (\$250,000.00), if the procurement period has not expired, FFR purchaser may amend or renew an existing contract/purchase order to extend its term for the remainder of the procurement period if any adjustment in price is deemed reasonable pursuant to a cost analysis, and all other terms remain the same.

(b) Example, if the competitive procurement covered a five (5) year period and the initial contract/purchase order was for two (2) years, FFR purchaser may extend the term of the initial contract/purchase order for up to three (3) years so long as the price is deemed reasonable pursuant to a cost analysis and all other terms remain the same.

(c) For procurements greater or less than two hundred fifty thousand dollars (\$250,000.00), if the procurement period has not expired, FFR purchaser may amend or renew an existing contract/purchase order to extend its term for the remainder of the procurement period if any adjustment in price is deemed reasonable and all other terms remainder the same.

(4) Records of procurements. FFR employees will maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-606. Contract provisions. All FFR procurement contracts shall contain the applicable contract provisions contained in 2 CFR part 200 Appendix II¹ - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. The provisions are described in Appendix 4² of this policy. Additionally, all procurement contracts will provide for the FFR right to maintain adequate oversight and ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-607. Documentation. (1) Debarment. FFR shall either:

(a) Confirm and document that the vendor is not excluded from doing business with the federal government (see www.sam.gov/SAM/) before entering into a contract; or

(b) Obtain a signed debarment certificate substantially in the form of App. 2.³

(2) Lobbying certificate. FFR shall obtain signed lobbying certificates substantially in the form of Appendix 3⁴ for procurements greater than one hundred thousand dollars (\$100,000.00).

(3) Records. FFR shall maintain records sufficient to detail history of each procurement transaction. These records must include, but are not limited to:

(a) A description and supporting documentation showing rationale for procurement method (e.g., cost estimates);

(b) Selection of contract type;

(c) Written price or rate quotations (such as catalog price, online price, email or written quote), if applicable;

(d) Copies of advertisements, requests for proposals, bid sheets or bid proposal packets;

^{1,2,3,4}Appendixes to the procurement policy are in the office of the recorder.

- (e) Reasons for vendor selection or rejection, including finance committee and board minutes, rejection letters and award letter; and
- (f) The basis for the contract price. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-608. Compliance with this policy. Program directors and, where applicable, the purchasing department, shall maintain oversight to ensure that contractors and vendors perform in accordance with the terms, conditions, and specifications of contracts or purchase orders. Violations of this policy may result in disciplinary action, up to and including termination. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

TITLE 6**LAW ENFORCEMENT****CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST¹****SECTION**

- 6-101. Police officers subject to chief's orders.
- 6-102. Police officers to preserve law and order, etc.
- 6-103. Police officers to wear uniforms and be armed.
- 6-104. When police officers to make arrests.
- 6-105. Police officers may require assistance.
- 6-106. Police department records.

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1997 Code, § 6-101)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the municipality. They shall patrol the town and shall assist the town court during the trial of cases. Police officers shall also promptly serve any legal process issued by the town court. (1997 Code, § 6-102)

6-103. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry the appropriate equipment as issued by the police department while on duty unless otherwise expressly directed by the chief for a special assignment. (1997 Code, § 6-103, modified)

6-104. When police officers to make arrests¹. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

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

¹Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1997 Code, § 6-104)

6-105. Police officers may require assistance. It shall be unlawful for any person willfully to refuse to aid a police officer in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the police officer and is reasonably necessary. (1997 Code, § 6-105)

6-106. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

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

(2) All arrests made by police officers.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1997 Code, § 6-107)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTARY FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. FIREWORKS.
6. OPEN BURNING.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be the town limits for the Town of Estill Springs. (1997 Code, § 7-101)

¹Municipal code reference

Building, utility and residential codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violations and penalty.

7-201. Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the *International Fire Code*,² 2018 edition, as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code. Pursuant to the requirements of *Tennessee Code Annotated*, §§ 6-54-502, one (1) copy of the *International Fire Code* has been filed with the recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1997 Code, § 7-201, modified, as amended by Ord. #22-466, Dec. 2022 *Ch1_12-01-22*)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. The chief shall apply for and meet the requirements of the "assistant to the commissioner" and shall have the same powers as the state fire marshal.

Included with or in addition to having the same powers as the state fire marshal, the fire chief or his designee shall have the authority to cancel any burning even with a fire permit, if this burning in their opinion, creates property damages or health hazards to anyone or anything in neighboring sites. (1997 Code, § 7-202, as amended by Ord. #22-466, Dec. 2022 *Ch1_12-01-22*)

¹Municipal code reference

Building, utility and residential codes: title 12.

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

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Estill Springs, Tennessee. (1997 Code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. The limits referred to in the fire prevention code, in which storage of explosive materials is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1997 Code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1997 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1997 Code, § 7-206)

7-207. Violations and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen of the municipality or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. Remedial fines and penalties may be assessed to bring violations into compliance after legal notice.

The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. (1997 Code, § 7-207, modified)

CHAPTER 3

VOLUNTARY FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Chief responsible for training and maintenance.

7-306. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a voluntary fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the Town of Estill Springs and shall be and remain the property of the town. The fire department shall be composed of a chief and assistant chief and such number of physically-fit subordinate officers and firemen as the board of mayor and aldermen authorize. (1997 Code, § 7-301)

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

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

(7) Investigate every fire for cause, origin, and circumstances which fire damaged or destroyed. Notify the state fire marshal as per Tennessee Fire Prevention and Arson Laws, *Tennessee Code Annotated*, § 68-102-111. (1997 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1997 Code, § 7-303)

¹Municipal code reference

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

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1997 Code, § 7-304)

7-305. Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1997 Code, § 7-306)

7-306. Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by *Tennessee Code Annotated*, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1997 Code, § 7-307)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-401. Restrictions on fire service outside town limits.

7-401. Restrictions on fire service outside town limits. No personnel or equipment of the fire department shall be used for fighting any fire outside the town limits unless the fire is on town property or, in the opinion of the fire chief, is in such hazardous proximity to property owned or located within the town as to endanger the town property, or unless the board of mayor and aldermen has developed policies for providing emergency services outside of the town limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(1) The Local Government Emergency Assistance Act of 1987, as amended, codified in *Tennessee Code Annotated*, § 58-2-601, *et seq.*¹

¹State law references

Tennessee Code Annotated, § 58-2-601, *et seq.*, as amended by Public Acts 1988, Ch. 499, authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government. It does not create a duty to respond to or to stay at the scene of an emergency outside its jurisdiction.

This statute, as amended, does not require written agreements between the local governments, but authorizes them to develop policies and procedures for requesting and responding to requests for emergency assistance, including provisions for compensation for service rendered.

The statute specifies which municipal officers may request and respond to requests for emergency assistance and provides for the appointment by municipal governing bodies of additional municipal officers with the same authority.

The statute provides that the senior officer of the requesting party will be in command at the scene of the emergency.

The statute outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its
(continued...)

- (2) *Tennessee Code Annotated*, § 12-9-101, *et seq.*¹
 (3) *Tennessee Code Annotated*, § 6-54-601.² (1997 Code, § 7-401)

¹(...continued)

employees shall be liable for any property damage or bodily injury at the actual scene of any emergency due to actions performed in responding to a request for emergency assistance; (2) The requesting party is not liable for damages to the equipment and personnel of the responding party in response to the request for emergency assistance; and (3) Neither the requesting party nor its employees is liable for damages caused by the negligence of the personnel of the responding party while en route to or from the scene of the emergency.

¹State law reference

Tennessee Code Annotated, § 12-9-101, *et seq.* is the Interlocal Cooperation Act which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

²State law reference

Tennessee Code Annotated, § 6-54-601 authorizes municipalities (1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance. (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance. (3) Provide fire protection outside their town limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Definitions.
- 7-502. Permits and permit fees.
- 7-503. Permit revocation.
- 7-504. Permissible fireworks.
- 7-505. Storing and structures.
- 7-506. Limitations on structures.
- 7-507. Location of fireworks outlets.
- 7-508. Parking for retail fireworks sales site.
- 7-509. Additional standards for fireworks retailers.
- 7-510. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-511. Limited time period to use fireworks.
- 7-512. Exemptions.
- 7-513. Violations and penalty.

7-501. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

- (i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks," or "Class C Common Fireworks."
- (ii) Theatrical and novelty, classified as 1.4S; or
- (iii) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, title 49, Code of Federal Regulations (CFR), parts 171-180.

(iv) Exceptions: (A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models; and

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the Town of Estill Springs issued under the authority of this section.

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

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s).

(g) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of *Tennessee Code Annotated*, § 68-104-101, *et seq.*

(2) Singular words and plural words used in the singular include the plural and the plural as singular.

7-502. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the Town of Estill Springs any item of fireworks without first having secured a state fire marshal permit and a permit issued by the Town of Estill Springs.

(a) Permits are non-transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9 or December 21 through January 5.

(c) The permit fee for retail permits is one thousand dollars (\$1,000.00) for the summer period and five hundred dollars (\$500.00) for the winter period.

(d) The fee for public displays using special display (1.3G) fireworks is five dollars (\$5.00).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G special display or 1.4G consumer fireworks display may obtain a permit to use fireworks for any time for the year by paying a five dollar (\$5.00) permit fee and obtaining a permit from the town.

(2) A permit to sell fireworks in the Town of Estill Springs must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of the applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal permit.

(d) The applicant is liable for all violations of this chapter by persons under this/her supervision.

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor must sign on behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One (1) double-faced sign is permitted; however, each sign face may not exceed thirty-six (36) square feet.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the Town of Estill Springs as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) Applicant shall pay one hundred dollars (\$100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed.

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances.

7-503. Permit revocation. (1) The codes director and/or fire official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty-six (36) hours after the codes director gives written notice.

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city codes director.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities or the permittee constitute a distinct hazard to life or property, the codes director or fire official, or both, may revoke the permit immediately.

7-504. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the Town of Estill Springs, except as provided in this chapter, any "fireworks" as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G consumer fireworks, or

(b) those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G display fireworks must be under the control of a licensed pyrotechnics technician.

7-505. Storing and structures. No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words, "Fireworks - No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use.

7-506. Limitations on structures. Tents meeting the current adopted *International Building Code* and the *Life Safety Code* (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block.

7-507. Location of fireworks outlets. Fireworks sales structures must be no closer than sixty feet (60') from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right-of-way. Any fireworks sales structure must be at least one hundred fifty feet (150') from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of one hundred twenty-five thousand (125,000) square feet.

7-508. Parking for retail fireworks sales site. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off-street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary.

7-509. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred fifty feet (750') from other similar uses. This instance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.

7-510. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times places, or in any manner that endangers other persons. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the Town of Estill Springs Fire Department, except for public (and/or group) displays for which permits have been granted.

7-511. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods:

(1) July 1 through July 4 - The permissible hours are from 10:00 A.M. to 10:30 P.M., except for July 4 when permissible hours are from 10:00 A.M. to 11:00 P.M.

(2) December 31 and January 1 - The permissible hours from 8:00 P.M. on December 31 to 1:00 A.M. on January 1.

7-512. Exclusions. Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the town in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fusees, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter.

7-513. Violations and penalty. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) per violation.

CHAPTER 6

OPEN BURNING

SECTION

7-601. Purpose.

7-602. Definition of terms.

7-603. Standards for open burning.

7-604. Permits.

7-605. Penalties.

7-601. Purpose. The purpose of this chapter is to regulate certain open burning in order to protect the public from the hazards of uncontrolled fires and pollution. This chapter will not relieve the person who will be burning from complying with *Tennessee Code Annotated*, §§ 39-14-305; 39-14-401; 68-102-146 and 68-211-101 *et seq.* (as added by Ord. #22-462, Sept. 2022 **Ch1_12-01-22**)

7-602. Definition of terms. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise:

(1) "Authority having jurisdiction." The organization, agency, office, department or individual responsible for approval or enforcement.

(2) "Open burning." Any person burning or causing to be burned combustible or flammable material in a method other than within an enclosure from which burning material cannot escape.

(3) "Permit" means the written authority of the Town of Estill Springs issued under the authority of this chapter.

(4) "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency. (as added by Ord. #22-462, Sept. 2022 **Ch1_12-01-22**)

7-603. Standards for open burning. It shall be unlawful for any person, as defined herein, to conduct an open burn within the corporate limits of the Town of Estill Springs without a valid approved permit.

(1) No person shall willfully start or cause to be started any open fire within the corporate limits of Estill Springs without first obtaining a burn permit from the State Division of Forestry.

(2) Prevailing winds at the time of ignition must be away from any dwelling, structure, highway or other populated area, the ambient air of which may be significantly affected by smoke, fly ash, or other contaminants from burning.

(3) Burning shall not be limited when it is determined by the fire chief or designee, based on information supplied by the National Weather Service or

other competent authority, that stagnant air conditions or inversions exist, or that such conditions may occur during the duration of the burn.

(4) Burning shall not be initiated when it is determined and announced by the state fire marshal that dry, drought, high wind or other hazardous conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Estill Springs.

(5) Burning shall not be initiated when it is determined and announced by the fire chief or designee that dry, drought, high wind or other hazardous conditions exist to prohibit burning within the corporate limits of Estill Springs.

(6) Asphaltic material, PVC, treated lumber, or items containing natural or synthetic rubber, or materials made with hydrocarbons shall not be burned or used to ignite the material to be burned or to promote the burning of such material. Banned materials include but may not be limited to tires and other rubber products, vinyl siding and vinyl shingles, plastics and other synthetic materials, paper products, cardboard and newspaper, asphalt shingles, and other asphalt roofing materials and demolition debris, asbestos containing materials, paints, household and agricultural chemicals, aerosol cans and food cans, building material and construction debris, buildings and mobile homes, coated wire, household trash, most vegetation not grown on site, etc.

(7) No burning shall be permitted within thirty feet (30') of any structure or dwelling.

(8) All fires must be attended to and under the direct supervision at all times of a person or persons that have sufficient capability and equipment to provide for complete extinguishment of the fire as needed.

(9) With the exception of bonfires and campfires, all fires shall be completely extinguished by 8:00 P.M. local time.

(10) All intentional open burning must comply with the rules and regulations set by the Tennessee Department of Environment and Conservation (TDEC) if not specifically more restricted by the municipality.

(11) Federal, state, or local declared natural disasters have certain provisions for cleanup. The Tennessee Department of Environment and Conservation, Division of Air Pollution Control open burning regulations include an exception for anyone conducting open burning of materials resulting only from a natural disaster. Such open burning is subject to certain conditions found at Tennessee Air Pollution Control Regulations (TAPCR) 1200-03-.04(1). Everyone must comply with the listed basic conditions which include, but are not limited to:

(a) Making a reasonable effort to remove all expressly prohibited materials from the natural disaster remains before ignition. Expressly prohibited materials include tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials.

(b) Ensuring that a traffic hazard will not be caused by the air contaminants generated by the fire.

(c) Refraining from igniting a fire while any pollution emergency episode is in effect in the area of the burn.

(d) Ensuring that no other safe and/or practical means of disposal is available. (as added by Ord. #22-462, Sept. 2022 *Ch1_12-01-22*)

7-604. Permits. Burn permits will be obtained from the State Division of Forestry. Permit season is classified by the State Division of Forestry, starting October 15th of the current year to May 15th of the following year.

(1) Permits shall not be issued without the approval of the authority having jurisdiction when it has cited the person or designated the burn site as being in violation of federal, state, or municipal laws.

(2) The town, through the fire chief, has the authority to revoke a permit and to extinguish a fire for any reason affecting the health, safety or welfare of the Town of Estill Springs. (as added by Ord. #22-462, Sept. 2022 *Ch1_12-01-22*)

7-605. Penalties. (1) Any person violating the provisions of this chapter, or of any permit issued under the authority of this chapter, or any provisions herein, shall be subject to the general penalty provision of this code. Each day of violations shall constitute a separate offense. The penalties provided in said section shall be separate and apart and not in lieu of all other civil or criminal penalties which may be imposed under the laws of the State of Tennessee, or the Town of Estill Springs, Tennessee.

(2) Penalties for violations of the open burning rules and regulations set by the Tennessee Department of Environment and Conservation (TDEC) will be assessed separately from the Town of Estill Springs by TDEC. (as added by Ord. #22-462, Sept. 2022 *Ch1_12-01-22*)

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 municipality. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101. (1997 Code, § 8-101, modified)

¹State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Hours of sale.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Privilege tax.
- 8-215. Civil penalty in lieu of revocation or suspension.
- 8-216. Loss of clerk's certification for sale to minor.
- 8-217. Violations and penalty.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. Its members shall serve without compensation. (1997 Code, § 8-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the municipal meeting room at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1997 Code, § 8-202, modified)

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

¹State law reference

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

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 vote of each member thereon; and the provisions of each beer permit issued by the board. (1997 Code, § 8-203)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1997 Code, § 8-204)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1997 Code, § 8-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (1981 Code, § 8-206)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Estill Springs. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (1997 Code, § 8-207)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer shall be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1997 Code, § 8-208)

8-209. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within three hundred feet (300') of any school, church or other such place of public gathering, measured along a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 1993. (1997 Code, § 8-209)

8-210. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1997 Code, § 8-210)

8-211. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

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

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

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

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

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

(7) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than that defined in *Tennessee Code Annotated*, § 57-5-101.

(8) Fail to provide and maintain separate sanitary toilet facilities for men and women, if beer is consumed on the premises. (1997 Code, § 8-211, modified)

8-212. Hours of sale. It shall hereafter be unlawful for any person, persons, firm, corporation or association to sell or distribute any of such beverages within the corporate limits of the Town of Estill Springs between the hours of 12:00 A.M. and 4:00 A.M. during any night of the week and upon conviction shall be fined not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00), and permit canceled for ninety (90) days or enact a civil penalty in lieu of suspension as set forth in § 8-215. (1997 Code, § 8-212)

8-213. 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 police chief 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.

8-214. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, to the Town of Estill Springs, 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. (1997 Code, § 8-214)

8-215. 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.¹ 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 town may impose.

8-216. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to 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.

8-217. Violations and penalty. 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.

¹State law reference

Tennessee Code Annotated, § 57-5-108(2).

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. TAXICABS.
4. CABLE TELEVISION.
5. YARD SALES.
6. MOBILE VENDORS AND MOBILE FOOD TRUCKS/TRAILERS.

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

9-101. "Going out of business" sales.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1997 Code, § 9-101)

¹Municipal code references

Building, plumbing and residential regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2**PEDDLERS, ETC.¹****SECTION**

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Loud noises and speaking devices.
- 9-207. Use of streets.
- 9-208. Exhibition of permit.
- 9-209. Police officers to enforce.
- 9-210. Revocation or suspension of permit.
- 9-211. Reapplication.
- 9-212. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1997 Code, § 9-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1997 Code, § 9-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the recorder a sworn written application containing the following:

- (1) Name and physical description of applicant;
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;
- (3) A brief description of the nature of the business and the goods to be sold;

¹Municipal code reference
Privilege taxes: title 5.

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

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

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

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

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

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

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1997 Code, § 9-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the recorder within seventy-two (72) hours.

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The recorder shall keep a permanent record of all permits issued. (1997 Code, § 9-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police of-

ficer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1997 Code, § 9-205)

9-206. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1997 Code, § 9-206)

9-207. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1997 Code, § 9-207)

9-208. Exhibition of permit. Permittees are required to exhibit their permits at the request of any police officer or citizen. (1997 Code, § 9-208)

9-209. Police officers to enforce. It shall be the duty of all police officers to see that the provisions of this chapter are enforced. (1981 Code, § 9-209)

9-210. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor;

(b) Any violation of this chapter;

(c) Conviction of any crime or misdemeanor; or

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

(2) Notice of the hearing for revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at

his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1997 Code, § 9-210)

9-211. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1997 Code, § 9-211)

9-212. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1997 Code, § 9-212)

CHAPTER 3

TAXICABS¹

SECTION

- 9-301. Taxicab franchise and privilege license required.
- 9-302. Requirements as to application and hearing.
- 9-303. Liability insurance or bond required.
- 9-304. Revocation or suspension of franchise.
- 9-305. Mechanical condition of vehicles.
- 9-306. Cleanliness of vehicles.
- 9-307. Inspection of vehicles.
- 9-308. License and permit required for drivers.
- 9-309. Qualifications for driver's permit.
- 9-310. Revocation or suspension of driver's permit.
- 9-311. Drivers not to solicit business.
- 9-312. Parking restricted.
- 9-313. Drivers to use direct routes.
- 9-314. Taxicabs not to be used for illegal purposes.
- 9-315. Miscellaneous prohibited conduct by drivers.
- 9-316. Transportation of more than one passenger at the same time.
- 9-317. Fares.

9-301. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1997 Code, § 9-401)

9-302. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab

¹Municipal code reference
Privilege taxes: title 5.

service; present the application to the board of mayor and aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board of mayor and aldermen shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1997 Code, § 9-402)

9-303. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in *Tennessee Code Annotated*, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1997 Code, § 9-403)

9-304. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1997 Code, § 9-404)

9-305. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1997 Code, § 9-405)

9-306. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day.

At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1997 Code, § 9-406)

9-307. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1997 Code, § 9-407)

9-308. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1997 Code, § 9-408)

9-309. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1997 Code, § 9-409)

9-310. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-309. (1997 Code, § 9-410)

9-311. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1997 Code, § 9-411)

9-312. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1997 Code, § 9-412)

9-313. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1997 Code, § 9-413)

9-314. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1997 Code, § 9-414)

9-315. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1997 Code, § 9-415)

9-316. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1997 Code, § 9-416)

9-317. Fares.¹ The fares for taxicab service within the Town of Estill Springs shall be fixed by ordinance of the board of mayor and aldermen from time to time. (1997 Code, § 9-417)

¹Administrative ordinances are of record in the recorder's office.

CHAPTER 4

CABLE TELEVISION

SECTION

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television service shall be furnished to the Town of Estill Springs and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Estill Springs and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹ (1997 Code, § 9-501)

¹For complete details relating to the cable television franchise agreement see Ord. #280 dated November 4, 2004 in the office of the recorder.

CHAPTER 5

YARD SALES

SECTION

- 9-501. Definitions.
- 9-502. Property permitted to be sold.
- 9-503. Restrictions as to time and location of such yard sales.
- 9-504. Hours of operation.
- 9-505. Exceptions.
- 9-506. Fourth sale permitted.
- 9-507. Display of sale property.
- 9-508. Advertising.
- 9-509. Persons exempted.
- 9-510. Violations and penalty.

9-501. Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein.

(1) "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.

(2) "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. (1997 Code, § 9-601)

9-502. 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. (1997 Code, § 9-602)

9-503. Restrictions as to time and location of such yard sales. No more than three (3) such sales may be conducted at any one (1) residential location, residence and/or family household during any calendar year. No more than six (6) such sales may be conducted from any nonresidential location during any calendar year. (1997 Code, § 9-603)

9-504. Hours of operation. Yard sales shall be limited in time to no more than 8:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (1997 Code, § 9-604)

9-505. Exceptions. If yard sale is not held on dates advertised, or is terminated during the first day of sale because of inclement weather conditions, another sale may be held at same location within thirty (30) days from the date when the first sale was to be held. (1997 Code, § 9-605)

9-506. Fourth sale permitted. A fourth yard sale may be held in a calendar year if there is a change of ownership of the real property, or tenant vacating the property. (1997 Code, § 9-606)

9-507. 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 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. (1997 Code, § 9-607)

9-508. Advertising. Signs permitted. Only the following specified signs may be displayed in relation to a pending yard sale:

(1) **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.

(2) **Directional signs.** Two (2) signs of not more than four (4) square feet shall be permitted, provided that the premises on which the yard sale is conducted is not on a major thoroughfare, and permission to erect such signs is received from the property owners on whose property such signs are to be placed.

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

(4) **Placement of signs.** No signs shall be placed on utility poles, traffic signs or any municipal sign or property. Signs shall not be placed in such a way as to obstruct vision at intersections or along right-of-way.

(5) **Removal of signs.** All signs must be removed on final day at conclusion of sale. (1997 Code, § 9-608)

9-509. Persons exempted. 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 regulation of the Town of Estill Springs 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. Those conducting such sales shall be deemed a business operation, and shall secure proper licenses from the Town of Estill Springs. (1997 Code, § 9-609)

9-510. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to twenty-five dollars (\$25.00) for each offense, up to two (2) offenses. Each subsequent offense shall be subject to a penalty of two hundred fifty dollars (\$250.00) each.

CHAPTER 6

MOBILE VENDORS AND MOBILE FOOD TRUCKS/TRAILERS

SECTION

- 9-601. Definitions.
- 9-602. Requirements.
- 9-603. Sales on streets and public property.
- 9-604. Mobile vendors on private property.
- 9-605. Permit.
- 9-606. Permit renewal.
- 9-607. Permit display.
- 9-608. Inspections.
- 9-609. Exemptions.
- 9-610. Penalties.

9-601. Definitions. (1) "Mobile vendor" is defined as any person selling food and/or drink or other products from a mobile vehicle, including a truck, trailer and/or ice cream truck.

(2) "Mobile vendor vehicle" is defined as a vehicle that returns daily to its base of operations and is used either in the preparation or sale of food or drink products, or other products not food related.

(3) "Food truck" is defined as an enclosed motor vehicle equipped with facilities for preparing, cooking and selling various types of food and/or drink products other than exclusively ice cream and related frozen products.

(4) "Food trailer" is defined as a detached trailer that is equipped with facilities for preparation, cooking and selling various types of food and/or drink products.

(5) "Ice cream truck" is defined as a motor vehicle containing a commercial freezer from which a vendor sells food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water and similar frozen items. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-602. Requirements. (1) Licenses and permits. It shall be unlawful for any person to engage in business as a mobile vendor in the Town of Estill Springs without first obtaining a mobile vendor or mobile food vendor/trailer permit. Any permits, licenses, and certifications required by the Franklin County Department of Health and/or State of Tennessee for operation of the business are also required. Upon being granted a mobile vendor permit, a mobile food vendor/trailer must comply with the rules and regulations herein.

(2) Insurance. At the time of the application for a mobile vendor permit, the mobile vendor must provide proof of valid automobile liability insurance in an amount required by law for operation of the applicable mobile

vendor vehicle(s). Failure to maintain this insurance when acting as a mobile vendor will result in immediate revocation of the mobile vendor permit.

(3) Trash receptacles. Each permitted mobile food vendor must maintain for customer use a trash receptacle of sufficient size to accept the litter being generated by the sales from the vendor's mobile food vehicle. The receptacle must be maintained in such a manner as to preclude an overflow of refuse. Each mobile food vendor shall pick up litter which is associated with the vendor's sale in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive trash shall be basis for suspension or revocation, by the city recorder, of the mobile vendor permit. if the mobile vendor feels the city recorder's decision is not warranted, they may appeal the decision to the board of mayor and aldermen.

(4) Alcoholic beverages. The sell, storage, distribution, and/or manufacturing of any alcohol or beer by a mobile vendor is prohibited and is grounds for immediate revocation of vendor permit.

(5) Fire extinguishers and fire suppression systems. All food trucks and food trailers must be equipped with a fire extinguisher that is certified annually by a licensed company. Additionally, food trucks and food trailers that produce grease laden vapors (i.e., units with deep fat fryers or flat-top griddles) must have a fire suppression system certified bi-annually by a licensed company.

(6) Placement. Mobile vendor vehicles shall not obstruct or impede pedestrian or vehicular traffic, access to driveways, and sight distance for drivers.

(7) Pedestrian only. Mobile vendor vehicles shall serve pedestrians only; drive-through or drive-in services are hereby prohibited.

(8) Health regulations. All mobile food vendors and their mobile food vehicles must be in compliance with all applicable health regulations for Franklin County and the State of Tennessee relating to food safety and preparation.

(9) No parking in fire lanes. No mobile vendors shall park in fire lanes.

(10) Signs. Signs which are permanently affixed to the mobile vendor vehicle shall extend no more than six inches (6") from the vehicle. Except as stated herein, all signs shall be attached or painted on the mobile vendor vehicle. Electronic signs are prohibited as are signs that flash, reflect motion pictures, emit smoke or vapor, or produce any rotation, motion or movement. Each truck or trailer is permitted one sandwich board type sign located within ten feet (10') of the applicable food truck or food trailer for advertisement purposes while the food truck or food trailer is open for business. Such sandwich board sign shall be no more than forty-eight inches (48") high and contain no more than seven (7) square feet. (as added by Ord. #21-450, June 2021 ***Ch1_12-01-22***)

9-603. Sales on streets and public property. (1) Ice cream trucks can operate between 11:00 A.M. and sunset. Ice cream trucks may vend on public streets so long as they remain mobile and only make stops of ten (10) minutes or less at one (1) location.

(2) **Mobile vendors.** Food trucks and food trailers are prohibited from selling food or other products on any public street, sidewalk, alley, trail, park, right-of-way or any town owned or controlled property unless approved as part of a town approved special event. All mobile vendors must comply with all rules, regulations and requirements related to town approved special events. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-604. Mobile vendors on private property. All mobile vendors shall be subject to the following regulations on private property:

(1) **Existing businesses.** No mobile vendor shall operate within three hundred feet (300') of a lawful establishment that is open for business (other than another mobile vendor vehicle) unless the mobile vendor provides documentation which is signed by the business owner or operator that the business owner or operator has no objection to the close proximity.

(2) **Location.** Mobile vendors will be permitted on private property in the town according to the terms and conditions herein. A mobile vendor under this section must have written permission from a private property owner. The mobile vendor must provide a copy of such written permission upon demand to the city recorder. No mobile vendor on private property shall do business or operate within fifty feet (50') of any property line of any lot used for residential purposes. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-605. Permit. Applicants for a permit under this section shall file with the city recorder a sworn application. Submission of false or misleading information will result in revocation of the permit and a ban on receiving future permits. The application shall provide the following:

- (1) The name and contact information of the applicant.
- (2) A valid driver's license.
- (3) The applicant's permanent street address, mailing address and email address if available.
- (4) The applicant's telephone numbers including a cell phone number.
- (5) A brief description of the nature of the business and of the goods to be sold.
- (6) A copy of the vehicle registration and proof of auto insurance for the mobile vendor vehicle and/or trailer.
- (7) A copy of the Estill Springs and Franklin County business license, proof of State of Tennessee sales tax registration, and any health department license or certification required by Franklin County Department of Health or the State of Tennessee.

(8) Permission to obtain a background check of owner(s) and operators of mobile vendor vehicles. The town reserves the right to reject an applicant if he or she (or in the case of an LLC or corporation, its owner(s)),

(a) Is a registered sex offender;

(b) Has been convicted of a felony in the past ten years;

(c) Has a chronic history of an unreasonable number and kind of moving vehicle violations as determined by the chief of police; or

(d) Presents an unreasonable public health and safety risk based on past criminal history as determined by the chief of police

(9) Payment of an application fee of two hundred fifty dollars (\$250.00). No refunds will be issued.

(10) Such other relevant information as may be reasonably requested by the town after review of application and supporting material. Full review of the information is needed to assess the impact of the proposed operation on the health, safety and well-being of the public. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-606. Permit renewal. A permit issued under this section shall be valid for the remainder of the calendar year from the date of issuance and shall be renewed on an annual basis on or before January 1 of each year. A new application must be completed upon renewing vendor permit along with the permit fee of two hundred fifty dollars (\$250.00). A permit shall be valid for only one (1) mobile vendor vehicle. Each operator and/or applicant shall file additional applications and pay an additional permit fee for each additional mobile vendor vehicle. No refunds will be issued for renewed permits and no renewed permits for partial years will be issued. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-607. Permit display. Permits issued under this section must be displayed where it is visible on each mobile vendor vehicle. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-608. Inspections. Nothing in this section shall be construed as limiting or replacing the role of the Tennessee Department of Health which has the primary task of inspecting mobile food vendor vehicles. The town police shall have the right at any time, after displaying proper identification, to enter into or upon any mobile vendor vehicle for the purpose of ascertaining whether or not any provisions of this section are being violated and for general inspection purposes. Any mobile vendor vehicle which is found after any town inspection to be unsafe or not compliant with this section may be directed to cease operation until the deficiency is corrected. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-609. Exemptions. Mobile vendors that are part of and participating in a town sponsored special event will not be required to comply with the requirements of this chapter as far as participation in such special event is concerned. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

9-610. Penalties. Violation of any section of this chapter shall subject the offender to a penalty under the general penalty provisions of this code. Each day the violation continues shall constitute a separate offense. (as added by Ord. #21-450, June 2021 *Ch1_12-01-22*)

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

1. IN GENERAL.
2. DOGS AND CATS.
3. VICIOUS DOGS.

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

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

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

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. (1997 Code, § 10-101, modified)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (1997 Code, § 10-102, modified)

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. (1997 Code, § 10-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1997 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1997 Code, § 10-105)

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 mayor and aldermen. 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.

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 mayor and aldermen, to cover the costs of impoundment and maintenance. (1997 Code, § 10-107, modified)

10-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the designated animal control officer, his authorized representative, or any police officer, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1997 Code, § 10-108)

10-108. Violations 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 continues 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. Violations 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 to 68-8-113) 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.

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 mayor and aldermen. If the dog is wearing a tag or found to be implanted with a microchip, 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 mayor and aldermen, 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

(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. Violations and penalty. Any violation of this chapter shall constitute a civil offense and, upon conviction thereof, shall be punished by a fine. A list of fine amounts are as follows:

(1) First offense \$67.00

(2) Second offense \$77.00

(3) Third offense \$87.00

(4) Fourth offense and any thereafter shall be considered a continuous nuisance and the dog(s) will not be released to the owner(s) or keeper(s).

¹(...continued)

law or return the animal.

An agency may not spay or neuter a dog or cat that is returned to its original owner within seven (7) days of its being taken into custody by the agency.

CHAPTER 3

VICIOUS DOGS

SECTION

- 10-301. Definitions.
- 10-302. Vicious dogs prohibited.
- 10-303. Procedure for determining that a dog is vicious.
- 10-304. Impoundment of vicious dogs.
- 10-305. Court proceedings against the owner.
- 10-306. Reckless dog owner.
- 10-307. Violations and penalties.
- 10-308. Deleted.

10-301. Definitions. For the purpose of this chapter, the following terms shall have the following meanings:

(1) "Confined" shall mean securely confined indoors within an automobile or other vehicle, or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two feet (2').

(2) "Vicious dog" shall mean any dog which attacks or bites a person or a domestic animal on any public or private property without provocation or justification or any dog owned or harbored primarily or in part for the purpose of fighting.

(3) "Domestic animal" shall mean an animal of a tamed species commonly kept as pets and includes livestock.

(4) "Owner" shall mean any person, partnership or corporation having a right of property in an animal, or who keeps or harbors a dog, or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him or her.

(5) "Animal control officer or director" shall mean any person employed or appointed by the Town who is authorized to investigate and enforce violations relating to animal control under the provision of this chapter.

(6) "Properly restrained" shall mean

- (a) Controlled by a competent person by means of a chain, leash, or other like device not to exceed six feet (6') in length,
- (b) Secured within or upon a vehicle being driven or parked, or
- (c) Confined within a proper enclosure.

Properly restrained in or upon a vehicle does not include restraint or confinement that would allow an animal to fall from or otherwise escape the confines of a vehicle or that would allow an animal to have access to persons

outside the vehicle. (modified, as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-302. Vicious dogs prohibited. It shall be unlawful for any person to keep or harbor a vicious dog within the Town of Estill Springs unless the vicious dog is confined.

(a) The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal or euthanasia of said animal.

(b) The owner shall pay any other associated costs incurred. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-303. Procedure for determining that a dog is vicious. (1) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such a complaint signed by one or more residents of Estill Springs, the animal control officer shall start an investigation of the complaint. Upon completion of the investigation, the animal control officer shall determine whether such dog is, in fact, vicious. The dog owner can be cited into court if said dog is in fact deemed to be vicious.

(2) In making the determination as to whether a dog is vicious, the animal control officer shall consider, but is not limited to, the following criteria:

- (a) Provocation;
- (b) Severity of attack or injury;
- (c) Previous aggressive history of the dog;
- (d) Observable behavior of the dog;
- (e) Site and circumstances of the incident;
- (f) Age of the victim;
- (g) Statements from witnesses and other interested parties;
- (h) Reasonable enclosures already in place;
- (i) Height and weight of the dog.

(3) If the dog is declared vicious, its owner shall confine the dog within a secure enclosure and whenever the dog is removed from the secure enclosure it shall be properly restrained, as defined in this chapter. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested and shall be at the owner's sole expense.

The animal control officer may:

(a) Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this chapter; or

(b) Permit an alternate method of enclosure provided that, in the sole discretion of the animal control officer, such alternate method fulfills the objectives as a secure enclosure.

(4) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:

(a) Was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog.

(b) Was teasing, tormenting, abusing, assaulting or provoking the dog.

(c) Was committing or attempting to commit a crime.

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-304. Impoundment of vicious dogs. Any vicious dog, not in compliance with the provisions this chapter, may be taken into custody by the appropriate authorities of the Town of Estill Springs, or agents acting on behalf of the town, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-305. Court proceedings against the owner. If any vicious dog is impounded, the Town of Estill Springs may institute proceedings in city court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the Town of Estill Springs or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-306. Reckless dog owner. (1) Any person convicted of (a) a violation of the Town of Estill Springs Code of Ordinances chapter on animals three (3) or more times in a twenty-four (24) month period; or

(b) A violation of this Article two (2) or more times in any five (5) year period, shall be declared a reckless dog owner.

(2) The animal control director shall issue a notification of the declaration of reckless dog owner to the person with the following:

(a) Name and address of the person subject to the declaration.

(b) The description, violation and conviction that led to the declaration.

(c) The name and description of all dogs subject to the effects of the declaration.

(d) Instructions on appealing the declaration to the board of mayor and aldermen.

(3) Once declared a reckless dog owner, the person shall not own, keep, possess or harbor a dog for a period of five (5) full years from the date of the declaration.

(4) A person declared to be a reckless dog owner may apply to the animal control director to have the declaration waived after two (2) years upon meeting the following conditions:

(a) The person has no subsequent violations of this chapter of the code.

(b) The person has complied with all the provisions of this act for a period of two (2) years.

(c) The person provides proof to the animal control director of successful completion of a program designed to improve the person's understanding of dog ownership responsibilities and based upon an interview with the animal control director establishes that understanding.

If the animal control director finds sufficient evidence that the person has complied with all conditions in this subsection, the director may rescind the reckless owner declaration subject to conditions that can help to ensure no future violations. If the director declines to remove the declaration, the person aggrieved may appeal to the board of mayor and aldermen within thirty (30) days of that decision. Upon appeal, the person must provide clear and convincing proof that ownership of a dog in the future will be handled responsibly and not in violation of any law or ordinance. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-307. Violations and penalties. Any person violating the provisions of this chapter, upon conviction, shall be subject to the general penalty provision of this code. Each day of violations shall constitute a separate offense. The penalties provided in said section shall be separate and apart and not in lieu of all other civil or criminal penalties which may be imposed under the laws of the State of Tennessee, or the Town of Estill Springs, Tennessee. (as replaced by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

10-308. Deleted. (as deleted by Ord. #22-463, Nov. 2022 *Ch1_12-01-22*)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. FIREARMS, WEAPONS AND MISSILES.
4. TRESPASSING AND INTERFERENCE WITH TRAFFIC.

CHAPTER 1

ALCOHOL²

SECTION

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

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on-premises consumption. (1997 Code, § 11-101)

11-102. Minors in beer places. No person under twenty-one (21) years of age shall loiter in or around any place where beer is sold at retail for consumption on the premises. (1997 Code, § 11-102)

¹Municipal code references

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

²Municipal code reference

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

State law reference

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

CHAPTER 2**OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. 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. (1997 Code, § 11-401)

11-202. 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) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(b) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) 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.

(d) 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.

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

(f) 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.

(g) 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.

(h) 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.

(i) 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.

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

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

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

(c) Commercial, noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by

nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an 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. (1997 Code, § 11-402, modified)

CHAPTER 3**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-301. Air rifles, etc.

11-302 Weapons and firearms generally.

11-301. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1997 Code, § 11-601)

11-302. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument. It shall also be unlawful for any unauthorized person to discharge a firearm within the municipality. (1997 Code, § 11-603, modified)

CHAPTER 4

**TRESPASSING AND INTERFERENCE
WITH TRAFFIC****SECTION**

11-401. Adoption of state criminal trespass statute.

11-402. Trespassing on trains.

11-403. Interference with traffic.

11-401. Adoption of state criminal trespass statute. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the Town of Estill Springs adopts by reference as if fully set forth in this section, "Criminal Trespass" as codified in *Tennessee Code Annotated*, § 39-14-405. (1997 Code, § 11-701, as replaced by Ord. #21-457, Jan. 2022 ***Ch1_12-01-22***)

11-402. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1997 Code, § 11-702)

11-403. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1997 Code, § 11-704)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. ADOPTION BY REFERENCE.
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6. DELETED.

CHAPTER 1

ADOPTION BY REFERENCE

SECTION

- 12-101. Adoption by reference.
- 12-102. Modifications and amendment.
- 12-103. Available for public observation.
- 12-104. Violations and penalty.

12-101. Adoption by reference. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506, 13-19-105 through 13-19-107, inclusive, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the following building codes are hereby adopted and incorporated by reference as part of this code, and are hereinafter collectively referred to as "the building code."¹

- Chapter 1. Residential Code: *International Residential Code (IRC)* 2018 edition.
- Chapter 2. Building Code: *International Building Code (IBC)* 2018 edition
- Chapter 3. Fuel Code: *International Fuel Gas Code (IFGC)* 2018 edition
- Chapter 4. Mechanical Code: *International Mechanical Code (IMC)* 2018 edition.
- Chapter 6. Plumbing Code: *International Plumbing Code (IPC)* 2018 edition
- Chapter 7. Property Maintenance Code: *International Property Maintenance Code (IPMC)* 2018 edition.
- Chapter 8. Energy Conservation Code: *International Energy Conservation Code (IECC)* 2018 edition.
- Chapter 9. Existing Building Code: *International Existing Building Code (IEBC)* 2018 edition.

¹¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(2) Chapter 10. *Life Safety Code Adoption.* There is hereby adopted all the provisions of the National Fire Prevention Association (NFPA) *101 Life Safety Code*,¹ 2018 edition, and all revisions hereafter enacted, save and except for such portions thereof as are hereinafter deleted, modified, amended, or are in conflict with this code of ordinances, of which not less than one (1) copy has been and now are filed in the office of the city recorder and the same are hereby adopted and incorporated as fully as if set forth in full and at length herein, and the provisions thereof shall be controlling those matters to which said code deals. (1997 Code, § 12-101, as amended by Ord. #16-416, June 2016, and replaced by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

12-102. Modifications and amendment. (1) General Amendment to Chapters 1, 2, 3, 4, 6, 7, 8, 9, 10: Whenever in the building code reference is made to the duties of a certain official named therein, that designated official of the Town of Estill Springs, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official in so far as enforcing the provisions of the above referenced codes are concerned.

(2) Specific Amendments: Chapter 1. Residential Code: *International Residential Code* (IRC), 2018 edition, Appendices J and Q, and completed table R301.2(1), and *International Residential Code* (IRC), 2012 edition appendix G except:

1. Replace exception in Section R313.1 regarding automatic fire sprinkler systems in townhouses with the following: "an automatic residential fire sprinkler system shall not be required if a 2 hour fire resistance rated wall exists between units, if such walls do not contain plumbing and/or mechanical equipment, ducts, or vents in the common wall."
2. Section R313.2 Automatic Fire Sprinkler Systems in one and two family dwellings is deleted in its entirety.
3. Replace 2018 IRC Tables N1102.1.2, and N1102.1.4 with 2009 IRC tables N1102.1 and N1102.1.2
4. Section R302.5.1 deleting "equipped with a self-closing or automatic closing device"
5. Delete the following sections, N1103.3.3, N1103.3.4, N1103.7, N1102.4.1.2
6. Chapters 34-43 relating to Electrical Installations are deleted.
7. Figure R301.2(2) Seismic Design Categories is deleted and replaced with Figure R301.2(2) Seismic Design Categories Site Class D from 2015 IRC
8. Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:
 - i. Exception 3. Interconnection and hardwiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure

¹¹Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

9. Section N1102.4.4(R402.4.4) rooms containing fuel-burning appliances is deleted in its entirety.
10. Section N1102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1102.4.2.1 Testing Option and Section N1102.4.2.2 Visual Inspection from 2009 IRC.
11. Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.
 - (3) Chapter 2. Building Code: *International Building Code (IBC)*, 2018 edition, except for:
 1. Chapter 11 Accessibility is deleted in its entirety.
 - (4) Chapter 8. Energy Conservation Code: *International Energy Conservation Code (IECC)*, 2018 edition, except that:
 1. Section R402.4.1.2 Testing is deleted and replaced with section 402.4.2.1 testing option and section 402.4.2.2 visual inspection option from 2009 IECC
 2. Section R403.3.3 duct testing (mandatory) and section R403.3.4 duct leakage (prescriptive) are optional.
 3. Table 402.1.2 Insulation and Fenestration requirements by component and Table R402.1.4 Equivalent U-Factors are deleted and replaced with Table 402.1.1 Insulation and Fenestration Requirements by component and Table 402.1.3 Equivalent U-Factors 2009 IECC . (Ord. #16-416, June 2016, as replaced by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

12-103. Available for public observation. General Amendment Applicable to Chapters 1, 2, 3, 4, 6, 7, 8, 9: Pursuant to the requirements of *Tennessee Code Annotated*, §§ 6-54-502, one (1) copy of the above referenced and adopted codes have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #16-416, June 2016, as replaced by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

12-104. Violations and penalty. (1) General Amendment Applicable to Chapters 1 and 2: It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted codes. The violation of any section of this chapter shall be punishable by a penalty as specified in the building codes, including provision that work commencing before permit issuance shall be subject to a fee established by the applicable governing body. Specifically, such fee shall result in doubling the cost of the standard permit cost. Failure to obtain such permit within twenty-four (24) hours of notification shall be punishable by additional penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense.

(2) General Amendment Applicable to Chapters 3, 4, 6, 7, 8, 9, 10: It shall be unlawful for any person to violate or fail to comply with any provisions of the above referenced and adopted code and as may be amended from time to time. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to

continue shall constitute a separate offense. (Ord. #16-416, June 2016, as replaced by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

CHAPTER 2

DELETED

(as deleted by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

CHAPTER 3

DELETED

(as deleted by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

CHAPTER 4

DELETED

(as deleted by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

CHAPTER 5

BUILDING INSPECTOR

SECTION

12-501. Appointment.

12-502. Duties.

12-503. Authority.

12-501. Appointment. The office of certified building inspector is hereby created. He shall be hired or appointed and his salary set by the majority of the board of mayor and aldermen. (1997 Code, § 12-501)

12-502. Duties. The duties of the building inspector shall be set forth in the *Tennessee Code Annotated*, the ordinances of the Town of Estill Springs and any other adopted building codes relative to the construction of any type of building or facility within the jurisdiction of the Town of Estill Springs. (1997 Code, § 12-502)

12-503. Authority. The certified building inspector shall have the authority with permission from the board of mayor and aldermen to enforce any ordinance or law or regulation as properly adopted by the board of mayor and aldermen and shall use all necessary means, including but not limited to, the citation of any violator to appear before the appropriate municipal court of the Town of Estill Springs and/or the board of mayor and aldermen. Any violator will be subject to the rules and regulations of the Town of Estill Springs and shall be punishable in accordance with the general penalty clause in this code of ordinances and/or other regulations passed by the board of mayor and aldermen of the Town of Estill Springs.

The certified building inspector shall make such inspections as he deems necessary on any structure within the corporate jurisdiction of the Town of Estill Springs. (1997 Code, § 12-503), modified)

CHAPTER 6

DELETED

(as deleted by Ord. #22-465, Dec. 2022 *Ch1_12-01-22*)

TITLE 13**PROPERTY MAINTENANCE REGULATIONS¹****CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. SLUM CLEARANCE.
4. REGULATION OF JUNKED VEHICLES.

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

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Dead animals.
- 13-105. Health and sanitation nuisances.
- 13-106. House trailers.
- 13-107. Overgrown and dirty lots.
- 13-108. 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. (1997 Code, § 13-102)

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. (1997 Code, § 13-103)

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

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(12).

order by the town recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1997 Code, § 13-104, modified)

13-104. 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 town recorder and dispose of such animal in such manner as the town recorder shall direct. (1997 Code, § 13-105, modified)

13-105. 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. (1997 Code, § 13-106)

13-106. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the municipality and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1997 Code, § 13-107)

13-107. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen 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 mayor and aldermen 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 § 13-107 of the Town of Estill Springs 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 town; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen 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 town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town 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 Franklin 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 mayor and aldermen 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 mayor and aldermen. The appeal shall be filed with the recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen 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 town 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. (modified)

13-108. 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**JUNKYARDS****SECTION**

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained in accordance with the town's zoning ordinance and subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1997 Code, § 13-201)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of *Hagaman v. Slaughter*, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

SLUM CLEARANCE¹

SECTION

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of orders.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.
- 13-314. Structures unfit for human habitation deemed unlawful.

13-301. Findings of board. Pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq.*, the board of mayor and aldermen finds that there exists in the town 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 town.

13-302. 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 mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the Town of Estill Springs, Tennessee, and the areas encompassed within existing town 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 town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(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.

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

13-304. 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 town 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 courts of law or equity shall not be controlling in hearings before the public officer.

13-305. 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.

13-306. 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."

13-307. 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.

13-308. 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 (1) 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 Franklin 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 Town of Estill Springs to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-309. 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 Town of Estill Springs. 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.

13-310. 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 town. 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 Franklin County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-311. Enjoining enforcement of orders. 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.

13-312. 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 town 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.

13-313. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town 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.

13-314. 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 town 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 town.

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 4**REGULATION OF JUNKED VEHICLES****SECTION**

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

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

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

(3) "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.

(4) (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 earthmoving 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. (Ord. #12-395, Oct. 2012)

13-402. 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. (Ord. #12-395, Oct. 2012)

13-403. 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, 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 town. (Ord. #12-395, Oct. 2012)

13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter 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 town 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. (Ord. #12-395, Oct. 2012)

13-405. Violations and penalty. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (Ord. #12-395, Oct. 2012)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. BOARD OF ZONING APPEALS.

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 eight (8) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other six (6) 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 six (6) members appointed by the mayor shall be for three (3) years each. The six (6) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of two (2) members expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1997 Code, § 14-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13. (1997 Code, § 14-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1997 Code, § 14-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Estill Springs shall be governed by Ordinance #50, titled "Zoning Ordinance, Estill Springs, Tennessee," and any amendments thereto.¹ (1997 Code, § 14-201)

¹Ordinance #50, and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

CHAPTER 3**BOARD OF ZONING APPEALS****SECTION**

14-301. Establishment.

14-302. Membership.

14-303. Variance.

14-304. Term of office.

14-301. Establishment. The Board of Mayor and Aldermen of the Town of Estill Springs, Franklin County, Tennessee, establishes a board of appeals to grant or reject a specific variance request by an aggrieved party. Their decisions shall be guided by procedures and powers compatible with "The Zoning Ordinance of the Town of Estill Springs, Tennessee." (1997 Code, § 14-301)

14-302. Membership. The board shall consist of a total of five (5) members appointed by the mayor with concurrence from the aldermen. This group shall consist of two (2) members of the board of mayor and aldermen, two (2) members from the regional-municipal planning commission and one (1) at-large member. The board of appeals shall elect a chairman to preside over the meetings, while minutes shall be recorded and maintained by the recorder or a delegated representative. (1997 Code, § 14-302)

14-303. Variance. When a variance is allowed by this board, such decision shall be transmitted to the mayor and board of aldermen by a letter stating the effective date and reasons for granting the variance. This document shall be signed by the chairman and attested by the recorder and sent within seven (7) calendar days. (1997 Code, § 14-303)

14-304. Term of office. The members of the board of appeals shall serve concurrently with the tenure of the mayor. (1997 Code, § 14-304)

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

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

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

- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicensed driver, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Adoption of state traffic statutes.

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. (1997 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1997 Code, § 15-102)

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. (1997 Code, § 15-104)

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; or
- (c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1997 Code, § 15-105)

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. (1997 Code, § 15-106)

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. (1997 Code, § 15-107)

15-107. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the municipality 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. (1997 Code, § 15-108, modified)

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 town.

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

¹Municipal code references

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

official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1997 Code, § 15-110)

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1997 Code, § 15-111)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1997 Code, § 15-112)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1997 Code, § 15-113)

15-113. 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. (1997 Code, § 15-114)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1997 Code, § 15-115)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1997 Code, § 15-116)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in

such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1997 Code, § 15-117)

15-117. 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. (1997 Code, § 15-118)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988." (1997 Code, § 15-119, modified)

15-119. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

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. (1997 Code, § 15-120)

15-120. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or

track is likely to damage the surface or foundation of the street. (1997 Code, § 15-121)

15-121. 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 town 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 1/2") 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 provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (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.

15-122. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) 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 Town of Estill Springs 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 town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-123. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(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 financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

15-124. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the town adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the town adopts *Tennessee Code Annotated*, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-8-199 by reference as if fully set forth in this section.

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. (1997 Code, § 15-201)

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

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1997 Code, § 15-202)

¹Municipal code reference

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

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1997 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (1997 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of 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. (1997 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1997 Code, § 15-302)

15-303. In school zones. Pursuant to *Tennessee Code Annotated*, § 55-8-152, the town 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 thirty (30) minutes before the opening hour of a school, or a period of thirty (30) 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.

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1997 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1997 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1997 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two (2) roadways. (1997 Code, § 15-403)

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. (1997 Code, § 15-404)

15-405. U-turns. U-turns are prohibited except where posted. (1997 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING**SECTION**

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1997 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1997 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1997 Code, § 15-503)

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the

¹Municipal code reference

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

nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train;
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train;
- (3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach; or
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1997 Code, § 15-504)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1997 Code, § 15-505)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1997 Code, § 15-506)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

- (1) Green alone, or "Go":
 - (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow alone, or "Caution":
 - (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
 - (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

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

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1997 Code, § 15-507)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the municipality it shall require obedience by vehicular traffic as follows:

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

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1997 Code, § 15-508)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or

otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1997 Code, § 15-509)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. 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 municipality shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") 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. (1997 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1997 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1997 Code, § 15-603)

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

- (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within an intersection or within fifteen feet (15') thereof.
 - (4) Within ten feet (10') of a fire hydrant.
 - (5) Within a pedestrian crosswalk.
 - (6) Within fifty feet (50') of a railroad crossing.
 - (7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance.
 - (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
 - (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (10) Upon any bridge.
 - (11) Alongside any curb painted yellow or red by the municipality.
- (1997 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1997 Code, § 15-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1997 Code, § 15-606)

CHAPTER 7

ENFORCEMENT

SECTION

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

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, 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 town 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. (1997 Code, § 15-701, modified)

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. (1997 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1997 Code, § 15-703)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any unattended vehicle which is illegally

¹State law reference

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

parked so as to constitute an obstruction or hazard to normal traffic. 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, or until it is otherwise lawfully disposed of. (1997 Code, § 15-704, modified)

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 to 55-16-109. (1997 Code, § 15-705)

15-706. Violations 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.¹

(2) Parking citations. For any parking violations, the offender may waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be twenty-five dollars (\$25.00) within ten (10) days and fifty dollars (\$50.00) thereafter. (1997 Code, § 15-707, modified)

¹Municipal code reference

Show cause hearing for traffic violations: § 3-207.

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. PARADES, ETC., REGULATED.

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. Operation of trains 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. (1997 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1997 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1997 Code, § 16-103)

16-104. Projecting signs and awnings, etc., restricted.

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1997 Code, § 16-104)

16-105. Banners and signs across streets and alleys restricted.

It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1997 Code, § 16-105, modified)

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. (1997 Code, § 16-106, modified)

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. (1997 Code, § 16-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1997 Code, § 16-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1997 Code, § 16-109)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. Operation of trains regulated. (1) No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes.

(2) It shall be unlawful to operate any train or portion thereof within the corporate limits in violation of *Tennessee Code Annotated*, § 65-12-108. (1997 Code, § 16-111)

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. (1997 Code, § 16-112)

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. (1997 Code, § 16-113)

16-113. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general provision of this code.

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Bond required.
- 16-205. Purpose.
- 16-206. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-207. Restoration of streets, etc.
- 16-208. Unacceptable fill material.
- 16-209. Breaking through pavement.
- 16-210. Driveway curb cuts.
- 16-211. Clean up.
- 16-212. Insurance.
- 16-213. Time limits.
- 16-214. Supervision.
- 16-215. Violations and penalty.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1997 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications,

¹State law reference

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

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 recorder within twenty-four (24) hours of its filing. (1997 Code, § 16-202)

16-203. Fee. The fee for such permits shall be twenty-five dollars (\$25.00). (1997 Code, § 16-203, modified)

16-204. Bond required. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1997 Code, § 16-204)

16-205. Purpose. Any special or annual deposit made hereunder shall serve as security for the repair and performance of work necessary to put the public place in as good condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. (1997 Code, § 16-205)

16-206. Manner of excavating--barricades and lights--temporary sidewalks. Any excavation or tunnel shall be done 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.

The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

When traffic conditions permit, the recorder may by written approval permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. The written approval may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

All excavation and/or construction sites shall be marked and signed as called for in the *Manual of Uniform Traffic Control* (latest edition), with signs, barricades, and flashing lights as required. (1997 Code, § 16-206)

16-207. 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 municipality shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the municipality, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the municipality 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 municipality, 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. (1997 Code, § 16-207)

16-208. Unacceptable fill material. If for any reason the excavated material cannot be compacted to its original density the material shall be removed and material acceptable to the recorder shall be used to complete the work. (1997 Code, § 16-208)

16-209. Breaking through pavement. Heavy duty pavement breakers may be prohibited by the administrative authority when the use endangers existing substructures or other property.

Saw cutting of Portland cement concrete may be required by the recorder or his designee when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall be not less than one inch (1") in depth; however, depths greater than one inch (1") may be required when circumstances warrant. Saw cutting may be required outside the limits of the excavation over cave-outs, overbreaks and small floating sections.

Approved cutting of bituminous pavement surface ahead of excavations may be required to confirm pavement damage to the limits of the trench.

Sections of sidewalks shall be removed to the nearest score line or joint.

Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

Cutouts outside of the trench lines must be normal or parallel to the trench line.

Boring or other methods to prevent cutting of new pavement may be required by the recorder or his designee.

Permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be

unstable, in which case permittee shall remove and pave the area. (1997 Code, § 16-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1997 Code, § 16-210)

16-211. Clean up. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the recorder or his designee. From time to time, as may be ordered by the recorder and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four (24) hours after having been notified to do so by the recorder, said work may be done by the town and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder. (1997 Code, § 16-211)

16-212. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident, and for property damages not less than twenty-five thousand dollars (\$25,000.00) for any one (1) accident, and a seventy-five thousand dollar (\$75,000.00) aggregate. (1997 Code, § 16-212)

16-213. 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 municipality if the municipality restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1997 Code, § 16-213)

16-214. Supervision. The recorder or his designee shall from time to time inspect all excavations and tunnels being made in the town 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. (1997 Code, § 16-214)

16-215. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty 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.

CHAPTER 3

PARADES, ETC., REGULATED

SECTION

- 16-301. Short title.
- 16-302. Definitions.
- 16-303. Purposes.
- 16-304. Permit.
- 16-305. Application.
- 16-306. Standards for issuance.
- 16-307. Contents of permit.
- 16-308. Duties of permittee.
- 16-309. Revocation of permit.
- 16-310. Notice to town officials.
- 16-311. Violations and penalty.

16-301. Short title. This chapter shall be known and may be cited as the "Parade Chapter of the Town of Estill Springs." (Ord. #10-379, Sept. 2010)

16-302. Definitions. The following words, for the purpose of this chapter, shall have the following meanings:

- (1) "Board of mayor and aldermen" is the Board of Mayor and Aldermen of Estill Springs.
- (2) "Chief of police" is the chief of police of Estill Springs.
- (3) "Parade" is any meeting, parade, demonstration, exhibition, festival, homecoming, assembly, or other such event to be held in or upon any street, park, or other public place in Estill Springs.
- (4) "Parade permit" is a permit as required by this chapter.
- (5) "Person" is any person, firm, group, partnership, association, corporation, company, or organization of any kind.
- (6) "Recorder" is the recorder of Estill Springs.
- (7) "Town" is the Town of Estill Springs. (Ord. #10-379, Sept. 2010)

16-303. Purposes. (1) The Town of Estill Springs recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs.

(2) The town passes this chapter to regulate the time, place, and manner of parades.

(3) The town passes this chapter in the interest of all its citizens' public safety, health, welfare, comfort, and convenience.

(4) The Town of Estill Springs has limited resources and passes this chapter so that it may properly allocate these resources among its citizens.

(5) The purpose of this chapter is to promote order, safety, and tranquility in the streets of the town.

(6) This chapter is passed to help minimize traffic and business interruptions during parades. (Ord. #10-379, Sept. 2010)

16-304. Permit. (1) No person shall parade unless a parade permit has been obtained from the board of mayor and aldermen. Any parade held without the proper permit shall be unlawful.

(2) This chapter shall not apply to funeral processions, students going to and from school classes or participating in educational activities or other school activities such as sports events, providing that such conduct is under the immediate direction and supervision of the proper school authorities and a governmental agency acting within the scope of its functions and in events sponsored by the town. (Ord. #10-379, Sept. 2010)

16-305. Application. (1) Any person seeking issuance of a parade permit shall file an application with the recorder on forms provided by the recorder. The recorder shall place the request for a parade permit on the agenda of the next meeting of the board of mayor and aldermen for action by it in the normal course of business.

(2) The application for a parade permit shall be filed in writing with the recorder not less than thirty (30) days prior to the contemplated parade or five (5) days prior to any regularly scheduled called meeting of the board of mayor and aldermen. No permit shall be granted sooner than one hundred eighty (180) days prior to the contemplated parade. A copy of the application shall be given to the chief of police who shall investigate and make a report to the board of mayor and aldermen.

(3) The application for a parade permit shall set forth the following information.

(a) The name, address, and telephone number of the person seeking to conduct a parade or of the organization and its responsible heads;

(b) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;

(c) The date when the parade is to be conducted;

(d) The route to be traveled, the starting point, and the termination point;

(e) The approximate number of persons who, and animals which, will constitute such parade; the type of animals and description of the vehicles;

(f) The hours when the parade will begin and end;

(g) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;

(h) The location by streets of any assembly area(s);

(i) The time at which units of the parade will begin to assemble at any assembly area(s);

(j) The interval of space to be maintained between units of the parade;

(k) If the parade is to be held on behalf of any person other than the applicant, the authorization of that person; and

(l) Whether the applicant has been convicted for the violation of the town parade ordinance of the Town of Estill Springs.

(4) The board of mayor and aldermen shall decide whether to grant the application for a permit. The board of mayor and aldermen may consult with the chief of police in making their decision.

(5) The board of mayor and aldermen in cooperation with the chief of police shall have the authority to designate the starting point, route, terminal point, or other time, place, and manner restrictions as deemed proper in consideration of minimum traffic interruption, public safety, health, welfare, convenience, peace, or order. (Ord. #10-379, Sept. 2010)

16-306. Standards for issuance. (1) The board of mayor and aldermen shall issue a parade permit upon consideration of the application and other information obtained when they find that:

(a) The conduct of the parade will not unduly interrupt the safe and orderly movement of other traffic contiguous to its route;

(b) The conduct of the parade will not require the diversion or interruption of essential or emergency municipal services, including police, fire, or ambulance services;

(c) The parade is scheduled to move from its origin to its termination expeditiously and without unreasonable delay;

(d) The applicant has satisfied the bond requirement; and

(e) No other permit has been granted for the same day.

(2) A permit shall be granted to the first person properly applying under the requirements of this chapter.

(3) No permit shall be granted for a parade except those restricted to the following time:

No earlier than 11:00 A.M. and no later than 12:00 midnight prevailing time.

(4) No permit shall be granted to any person until the applicant has posted in advance a two hundred fifty dollars (\$250.00) bond to cover the reasonable expenses incurred in the cleanup efforts after the parade.

(5) The recorder shall notify the applicant within five (5) days after the action of the board of mayor and aldermen whether the permit has been granted or denied if the permit has been denied, the recorder shall set forth the reasons why the board of mayor and aldermen denied the permit.

(6) In computing any period of time set out in this chapter, no Saturdays, Sundays, or holidays are to be computed in the time period. (Ord. #10-379, Sept. 2010)

16-307. Contents of permit. Each parade permit shall state the following:

- (1) Assembly and disassembly time and place;
 - (2) Starting time;
 - (3) The route and the portions of the streets to be traversed that may be occupied by the parade;
 - (4) Minimum speed;
 - (5) Maximum speed;
 - (6) Interval of space between parade units;
 - (7) The maximum length of the parade in miles or fractions thereof;
- and
- (8) Other information as the board of mayor and aldermen in cooperation with the chief of police shall find necessary to the enforcement of this chapter. (Ord. #10-379, Sept. 2010)

16-308. Duties of permittee. (1) A permittee shall comply with all permit application information, permit directions and conditions, and with all applicable laws and chapters.

(2) The permittee shall advise parade participants of such permit requirements.

(3) The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the parade.

(4) All permittees who hold a parade permit that includes animals shall be responsible for the clean-up after the animals immediately after the parade.

(5) The applicant shall assure the board that neither the parade nor the assembly point will interfere with or unreasonably obstruct the response capabilities of the firefighting equipment and other emergency response vehicles. (Ord. #10-379, Sept. 2010)

16-309. Revocation of permit. (1) The board of mayor and aldermen or their designee shall have the authority to revoke a parade permit issued hereunder prior to the parade upon the application of the standards for issuance as herein set forth if it is found that:

- (a) Applicant materially misrepresented facts or information in the application; and/or
- (b) Applicant failed to meet the standards for issuance set forth herein.

(2) The board of mayor and aldermen or their designee shall have the authority to revoke the permit during the parade and disassemble the parade if:

(a) A public emergency arises requiring such revocation to protect the safety of persons or property; or

(b) Disorderly conduct, riots, lawless activity, violence, or other breach of the peace, incited by parade participants, occurs. (Ord. #10-379, Sept. 2010)

16-310. Notice to town officials. Immediately upon the issuance of a parade permit, the recorder shall send a copy of the permit to the following:

- (1) The mayor;
- (2) The town attorney;
- (3) The fire chief;
- (4) The ambulance authority; and
- (5) The chief of police. (Ord. #10-379, Sept. 2010)

16-311. Violations and penalty. (1) It shall be unlawful for any person to parade without first having obtained a permit as required by this chapter.

(2) It shall be unlawful for any person to participate in a parade on the streets of Estill Springs for which a permit has not been granted.

(3) It shall be unlawful for any person to fail to comply with all directions and conditions of the parade permit.

(4) Any person violating the provisions of any section of this chapter shall, upon conviction, be fined not more than fifty dollars (\$50.00) for each violation. (Ord. #10-379, Sept. 2010)

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. Disposal.
- 17-108. Refuse collection fees.
- 17-109. Disposal of construction refuse.
- 17-110. Brush pickup and chipper service.
- 17-111. Junk pickup.
- 17-112. 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 town 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 town where refuse accumulates or is likely to accumulate, shall be provided a refuse container. Acceptable refuse container shall mean those obtained from the Town of Estill Springs, Tennessee, and shall be ninety-five (95) gallon containers which can be

¹Municipal code reference

Property maintenance regulations: title 13.

handled with the mechanical equipment on the garbage truck and which do not require manual lifting by the sanitation workers.

(1) In the event a customer has an overflow it is permissible for this overflow to be deposited curbside in garbage bags.

(2) In the event the customer has an overflow on a regular basis then the street and sanitation manager may require the user to have an additional refuse container.

(3) When an additional refuse container is required, the customer shall pay to the town an additional collection fee.

Refuse containers will remain the property of the Town of Estill Springs. Routine maintenance and replacement of the containers will be the town's responsibility; the customer shall be responsible for cleaning and general care of the refuse container. Such containers shall be used for the disposal of household/office waste only. Any damage to the refuse container that is the result of abuse, misuse, neglect, etc. by the customer shall be the customer's responsibility.

17-104. Location of containers. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the town 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 Town of Estill Springs Street and Sanitation Department. Collections shall be made regularly in accordance with an announced schedule. Refuse shall be collected from residences and businesses once a week.

17-107. 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 mayor and aldermen is expressly prohibited.

17-108. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by ordinance.¹

17-109. Disposal of construction refuse. In no case will it be the responsibility of the town to collect refuse resulting from construction, demolition, remodeling, or repairs of buildings, structures or appurtenances. The property owner or contractor, or the person having same in charge, shall be responsible for the disposal of such refuse.

17-110. Brush pickup and chipper service. All brush (tree limbs, shrubbery and hedge trimmings) must be placed on municipal right-of-way. Limb size should not exceed six inches (6") in diameter or ten feet (10') in length. The trunks or limbs of trees measuring six inches (6") or more in diameter shall be cut into lengths of not more than two feet (2') and a weight of no more than fifty (50) pounds. All brush shall be neatly stacked in an unscattered manner and can be manually picked up safely.

The Town of Estill Springs shall not be responsible for the collection and disposal of any brush that has been generated by persons engaged in the business of landscaping or trimming, repairing, etc., of trees and shrubbery. Persons performing services for economic gain wherein trees or shrubbery are cut, trimmed, removed or altered, and wherein an accumulation of brush, wood, vines, debris or other refuse attendant to landscaping as a result of such work or service shall be the responsibility of the contractor, developer, or property owner.

17-111. Junk pickup. All junk items will be picked up no more than twice a month as resources are available and must be placed on municipal right-of-way. In the event that the amount of junk items become excessive or is continuous, the sanitation department has the right to refuse to pick up the items or charge an additional fee for disposal. The Estill Springs Street and Sanitation Department will not pick up or be responsible for any contractor's refuse of any kind. Also, the town will not be responsible to pick up any items that cannot be placed in regular dump sites.

17-112. Violations and penalty. Any occupant of a dwelling, business location, firm or corporate place of business who shall permit garbage, rubbish and waste matter to accumulate on or about his or its respective premises and shall fail to comply with the conditions of this chapter to such an extent as to allow the collection of waste materials to become a hazard to the safety of the

¹Administrative ordinances and resolutions are of record in the office of the recorder.

public health shall be deemed violating this chapter. 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.

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER.
2. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. CROSS-CONNECTION ORDINANCE.

CHAPTER 1

WATER AND SEWER SYSTEM ADMINISTRATION

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Service connections.
- 18-107. Cost of connections.
- 18-108. Private fire lines.
- 18-109. Multiple services through a single meter.
- 18-110. Supply to steam boilers.
- 18-111. Special service.
- 18-112. Illegal use of fire hydrants.
- 18-113. Water main extensions.
- 18-114. Water main extension variances.
- 18-115. Meters.
- 18-116. No guarantee of pressure and/or supply.
- 18-117. Damages to property due to water pressure.
- 18-118. Customer billing and payment policy.
- 18-119. Water turned on.
- 18-120. Water shut off.
- 18-121. Failure of customer to comply with regulations.
- 18-122. Access to customers' premises.
- 18-123. Customer's responsibility for system's property.
- 18-124. Customer's responsibility for violations.
- 18-125. Unauthorized use of or interference with water supply.

¹Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

- 18-126. Size of truck.
- 18-127. Cross-connections.
- 18-128. Adjustments for excessive water bills and instructions for cutoff valves.
- 18-129. Restricted use of water.
- 18-130. Schedule of rates.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise.

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water service from the town under either an express or implied contract.

(2) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.

(3) "Service line" shall consist of the pipe line extending from any water main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the water department before connection or meter installation orders will be issued and work performed.

A nonrefundable service fee of fifty dollars (\$50.00) for property owners and one hundred dollars (\$100.00) for renter will be required before service is commenced. This service fee shall be charged every time water is cut on to a different location.

18-104. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the water department to render the service applied for. If the service applied for cannot be supplied in accordance with these rules and regulations and general practice, the liability of the water department to the applicant shall be limited to the return of any service deposit made by such applicant.

18-105. Service charges for temporary service. (1) Customers requiring temporary service shall notify the water department of their desire to have water turned on for a period of time not to exceed two (2) weeks.

(2) A twenty-five dollar (\$25.00) upfront fee shall be charged for all temporary service which will cover up to two thousand (2,000) gallons of water. The customer will be billed the regular rate for any water used over two thousand (2,000) gallons.

(3) Water will be discontinued at the end of the two (2) week period unless the customer gives notice to cutoff prior to this time period or pays an additional twenty-five dollar (\$25.00) fee to continue the service for an additional two (2) weeks.

18-106. Service connections. Service lines will be laid in all cases by the water department from the main to the property line. The water department will install, and pay for the installation of, all service lines to the property line. When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box shall be installed and belong to and be the responsibility of the customer. All water lines shall have a cutoff valve attached on the customer side of the meter.

18-107. Cost of connections. The tap fee for new service is as follows:

3/4" Tap	Inside rate	\$ 850.00
	Outside rate	\$ 850.00
1" Tap	Inside rate	\$ 1,200.00
	Outside rate	\$ 1,200.00
2" Short side tap	Inside rate	\$ 2,000.00
	Outside rate	\$ 2,000.00
2" Long side tap (road bore)	Inside rate	\$ 2,500.00
	Outside rate	\$ 2,500.00

All taps will be charged additional cost for labor and materials if necessary. (as replaced by Ord. #19-436, Dec. 2019 *Ch1_12-01-22*)

18-108. Private fire lines. Private fire lines or sprinkler lines will be installed at the expense of the customer; such construction to be made in accordance with the specifications of the water department. Such lines shall be owned and maintained by the customer.

Water department employees shall have access to the premises at all reasonable hours, for the purpose of inspecting such private fire lines and/or sprinkler systems.

18-109. Multiple services through a single meter. No customer shall supply water service, or allow water to be carried through a hose or pipe, to any premise other than that described in the water application, without first obtaining the written permission of the water department. Any new service will have a separate tap. All commercial units, both present and future, will have a separate tap.

All customers serving water to more than one (1) housing unit per tap must pay a minimum bill for each such unit serviced plus two dollars and fifty cents (\$2.50) for each one thousand (1,000) gallons over the number of minimums. Outside customers would pay five dollars (\$5.00) for each one thousand (1,000) gallons over the number of minimums.

18-110. Supply to steam boilers. In no event shall a steam boiler be supplied directly from a water main of the town; but in all cases in which water is supplied to steam boilers from the town mains, there shall be a tank or other receptacle located between the boiler and the water main, and such supply shall be taken directly from the water tank or receptacle. A backflow device will also be used.

18-111. Special service. The water department may issue permits for the use of water for building or construction purposes, or other temporary purposes, provided that the applicant shall pay for tapping and installing and conform to all other requirements of the water department.

18-112. Illegal use of fire hydrants. No person other than authorized agents of the water department or fire department shall take water from a fire hydrant without the consent of the water department.

18-113. Water and main extensions. Persons desiring water main extensions must pay all of the cost of making such extensions.

All such extensions shall be installed either by town forces or by other forces working directly under the supervision of the town in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the town, such water mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish

water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains.

18-114. Water main extension variances. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the town and its inhabitants to construct a water main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen.

The authority to make water main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons.

18-115. Meters. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter.

The town will also make tests or inspections of its meters at the request of the customer. However, if a test required by a customer shows a meter to be accurate within the limits stated above, the customer shall pay meter testing charges.

18-116. No guarantee of pressure and/or supply. The water department does not guarantee to the customer any fixed pressure or a continuous supply. In the case of breaks in mains, service pipes, pumping machinery, reservoirs, or other equipment of the water department, and for the purpose of extending, replacing, or cleaning mains, or any other necessary work in connection with mains, the water may be shut off when necessary without notice and the town shall not be liable for damages which may arise therefrom.

18-117. Damages to property due to water pressure. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains.

18-118. Customer billing and payment policy. Water bills shall be payable monthly at the water department's office, or at a place designated by the water department.

Meters will be read around the third week of the month and bills will be mailed to customers on or about the last day of the month.

Bills are due and payable on or before the twelfth (12th) day of each month. Bills shall increase ten percent (10%) if not paid on or before the twelfth (12th) day of each month. In the event the twelfth (12th) of the month falls on Saturday, Sunday or a holiday when the water department is closed, the customer will have until the next business day to pay without penalty. If bills are not paid by the twenty-second (22nd) day of each month by 8:00 A.M., then the town shall turn off the water to the customer and shall charge a fee of fifty dollars (\$50.00) for turning the water back on, either for non-payment of bills or for any violation of these rules and regulations, if re-connected during regular business hours. However, if the re-connect occurs after hours, the fee will be seventy-five dollars (\$75.00).

After hours re-connection is not guaranteed. If the past due bill and re-connection fee is paid in full, the reconnection of water service will be within forty-eight (48) hours. Water department servicemen cannot receive payments.

Failure to receive a bill will not release a customer from payment obligation.

If the owner of the premises being supplied water desires to be billed rather than the tenant, or customer, for water used, the owner himself must fill out the application and pay the service fee as set forth above. The owner shall be held responsible for any violation of these rules and regulations.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available.

18-119. Water turned on. Water shall not be turned on for any purpose by anyone except an authorized employee of the water department.

Whenever water service has been discontinued for non payment of any bill rendered, or because of a violation of this chapter, a charge as set forth in these rules and regulations shall be made to cover the cost of turning the water on again, and this charge shall be paid in advance.

18-120. Water shut off. The owner or agent of rental property shall notify the water department at the time such property becomes vacant. Otherwise the owner or agent shall be responsible for any damage to the property of the water department, and for all water furnished to such property up until receipt of such vacancy notice.

The water department will presume service is being rendered from the time water is turned on at the request of the customer, owner, or agent, until the customer, owner, or agent gives its written notice to discontinue the service and charges will be made accordingly.

18-121. Failure of consumer to comply with regulations. The water department may refuse to furnish water to the premises of any applicant who

fails to meet all the applicable conditions and terms of the foregoing regulations, or it may discontinue water service in the event the customer violates or fails to comply with any of the foregoing regulations.

18-122. Access to customers' premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations.

18-123. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer.

18-124. Customer's responsibility for violations. Where the town furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him.

18-125. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town.

18-126. Size of trunk. All developers will be required to install a minimum of a six-inch (6") water line and furnish the required number of fire hydrants. There will be no refunds on the cost of installation of water lines.

18-127. Cross-connections. Cross-connections to any of the Estill Springs water department lines will constitute a misdemeanor and will be dealt with in title 18, chapter 3.

18-128. Adjustments for excessive water bills and instructions for cutoff valves. Monthly bill that was the result of a water leak will be added to the five (5) previous bills and averaged. Abuse will result in no adjustment until the board of mayor and aldermen see fit. The requirements for a water adjustment are as follows:

(1) Amount of bill must be at least three (3) times previous month's bill;

- (2) Leak must not be due to negligence;
 - (3) Proof of repairs must be submitted before adjustment can be made;
- and
- (4) Only one (1) adjustment within a three (3) year period.

Water leak adjustments will be subject to review by the water superintendent and the board of mayor and aldermen if deemed necessary. All water customers will have a cutoff valve installed adjacent to his/her side of the meter.

18-129. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use.

18-130. Schedule of rates.¹ Water service rates shall be at such rates as are from time to time set by the board of mayor and aldermen by resolution.

¹Administrative ordinances are of record in the office of the recorder

CHAPTER 2

SEWAGE AND HUMAN EXCRETA DISPOSAL¹

SECTION

- 18-201. Definitions.
- 18-202. Places required to have sanitary disposal methods.
- 18-203. Use of septic tanks.
- 18-204. Registration and records of septic tank cleaners, etc.
- 18-205. Use of pit privy or other method of disposal.
- 18-206. Approval and permit required for septic tanks, privies, etc.
- 18-207. Owner to provide disposal facilities.
- 18-208. Occupant to maintain disposal facilities.
- 18-209. Only specified methods of disposal to be used.
- 18-210. Discharge into watercourses restricted.
- 18-211. Pollution of ground water prohibited.
- 18-212. Enforcement of chapter.
- 18-213. Carnivals, circuses, etc.
- 18-214. Violations and penalty.

18-201. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than seven hundred fifty (750) gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five feet (5'). The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

¹Municipal code reference
Plumbing code: title 12, chapter 2.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized by the board of mayor and aldermen to enforce this chapter.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(5) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(6) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(7) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1997 Code, § 18-201)

18-202. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1997 Code, § 18-202)

18-203. Use of septic tanks. All water carried sewage shall be discharged into an approved septic tank system. No septic tank or other water carried sewage disposal system shall be installed without the approval of the health officer or his duly appointed representative. (1997 Code, § 18-203)

18-204. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1997 Code, § 18-204)

18-205. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-202 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1997 Code, § 18-205)

18-206. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the

health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1997 Code, § 18-206)

18-207. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-202, or the agent of the owner to provide such facilities. (1997 Code, § 18-207)

18-208. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times. (1997 Code, § 18-208)

18-209. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1997 Code, § 18-209)

18-210. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1997 Code, § 18-210)

18-211. Pollution of ground water prohibited. No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1997 Code, § 18-211)

18-212. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within ten (10) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the

number of days herein provided within which to make permanent correction. (1997 Code, § 18-212)

18-213. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of ten (10) days provided for in the preceding section. (1997 Code, § 18-213)

18-214. Violations and penalty. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1997 Code, § 18-214)

CHAPTER 3

CROSS-CONNECTION ORDINANCE¹

SECTION

- 18-301. Objectives.
- 18-302. Definitions.
- 18-303. Compliance with Tennessee Code Annotated.
- 18-304. Regulated.
- 18-305. Permit required.
- 18-306. Inspections.
- 18-307. Right of entry for inspections.
- 18-308. Correction of violations.
- 18-309. Required devices and repairs.
- 18-310. Non-potable supplies.
- 18-311. Statement required.
- 18-312. Penalty; discontinuance of water supply.
- 18-313. Provision applicable.

18-301. Objectives. The objectives of this ordinance are to:

- (1) To protect the public potable water system of Town of Estill Springs from the possibility of contamination or pollution by isolating within the customer's internal distribution system, such contaminants or pollutants that could backflow or backsiphon into the public water system;
- (2) To promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems; and
- (3) To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (Ord. #11-387, Oct. 2011)

18-302. Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this article:

- (1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An

¹Municipal code reference

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than six inches (6"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than six inches (6").

(2) "Atmospheric vacuum breaker" shall mean a device, which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" shall mean any water supply, on or available to a premise, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross-connection.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, stream and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross-connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross-connections.

(9) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with *AWWA Manual M14-Second Edition 1990*. The six (6) classes are as follows:

Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

Class 3 shall be those with direct connection from public water supply mains, plus one (1) or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device, which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(13) "Person" shall mean any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(14) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(15) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(16) "Public water supply" shall mean the Town of Estill Springs, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(17) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(18) "Manager" shall mean the manager of the Town of Estill Springs or his duly authorized deputy, agent or representative.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e. the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (Ord. #11-387, Oct. 2011)

18-303. Compliance with Tennessee Code Annotated. The Town of Estill Springs shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Town of Estill Springs shall comply with § 68-221-711 of the *Tennessee Code Annotated*, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (Ord. #11-387, Oct. 2011)

18-304. Regulated. (1) No water service connection to any premises shall be installed or maintained by the Town of Estill Springs unless the water supply system is protected as required by state laws and this ordinance. Service of water to any premises shall be discontinued by the Town of Estill Springs if a backflow prevention device required by this ordinance is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) It shall be unlawful for any person to cause a cross-connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection is at all times under the direction of the manager of the Town of Estill Springs.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Town of Estill Springs shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this ordinance. (Ord. #11-387, Oct. 2011)

18-305. Permit required. (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Town of Estill Springs for approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the Town of Estill Springs. (Ord. #11-387, Oct. 2011)

18-306. Inspections. The manager or his designated agent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspection shall be based on potential health hazards involved, and shall be established by the Town of Estill Springs in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (Ord. #11-387, Oct. 2011)

18-307. Right of entry for inspection. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Town of Estill Springs public water system for the purpose of inspecting the piping system therein for cross-connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections, and shall be grounds for disconnection of water service. (Ord. #11-387, Oct. 2011)

18-308. Correction of violations. (1) Any person found to have cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this ordinance shall be allowed a reasonable time within which to comply with the provisions of this ordinance. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the manager or his representative shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross-connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Town of Estill Springs shall require that immediate corrective action (within fourteen (14) days) be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of the hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this ordinance and *Tennessee Code Annotated*, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the

customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two (2) systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (Ord. #11-387, Oct. 2011)

18-309. Required devices and repairs. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

- (a) Impractical to provide an effective air-gap separation;
- (b) The owner/occupant of the premises cannot or is not willing to demonstrate to the Town of Estill Springs that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;
- (c) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (d) There is likelihood that protective measures may be subverted, altered or disconnected;
- (e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required; or
- (f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems and swimming pools with no permanent plumbing installed) approved by the Tennessee Department of Environment and Conservation and the Town of Estill Springs, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Town of Estill Springs prior to installation and shall comply with the criteria set forth in this ordinance. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Premises requiring reduced pressure principle assemblies or air gap separation. High risk high hazards. Establishments which pose significant risk of contamination or may create conditions which pose an extreme hazard of immediate concern (high risk high hazards), the cross-connection control inspector shall require immediate or a short amount of time (fourteen (14) days maximum), depending on conditions, for corrective action to be taken. In such cases, if corrections have not been made within the time limits set forth, water service will be discontinued.

High risk high hazards require a reduced pressure principle (or detector) assembly. The following list is establishments deemed high risk high hazard and require a reduced pressure principle assembly:

High hazard. In cases where there is less risk of contamination, or less likelihood of cross-connections contaminating the system, a time period of (ninety (90) days maximum) will be allowed for corrections. High hazard is a cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness, and spread disease. (See Appendix A of plan)

(4) Should a protective assembly be found defective or have a status of failed, the water system will require the assembly to be repaired promptly with manufacturer's specified parts, in accordance to manufacturer's suggested procedure, and placed in proper operating condition within a maximum of thirty (30) days or fourteen (14) days for high risk high hazard locations. Following repairs, the assembly is to be tested again to verify that it is meeting performance standards and have a status of passed. Those locations with assemblies that do not have a status of passed within ninety (90) days of the initial failed test, fourteen (14) days for high risk high hazard locations, will be disconnected from the distribution system. The owner will be held responsible for maintaining protective measures in a good state of repairs. The owner of an assembly needing repairs or maintenance will be permitted to do the work, if such owner is properly qualified or the owner may elect to secure the services of someone else experienced in the repair of the assemblies.

(5) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by Town of Estill Springs as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(d) Swimming pools with no permanent plumbing and only filled with hoses will require a hose bibb vacuum breaker be installed on the faucet used for filling.

(6) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(7) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this ordinance, by a person approved by the Town of Estill Springs who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device (except hose bibb vacuum breakers). All fittings shall be of brass construction, unless otherwise approved by the Town of Estill Springs, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either;

- (i) The floor,
- (ii) The top of opening(s) in the enclosure, or
- (iii) Maximum flood level,

whichever is higher. Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall

have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/backsiphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by the Town of Estill Springs. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices two and one-half inches (2 1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designated and furnished by the manufacturer of the enclosure to maintain an interior temperature of plus forty degrees Fahrenheit (+40°F) with an outside temperature of minus thirty degrees Fahrenheit (-30°F) and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) device has been installed and the continuance of service is critical, the Town of Estill Springs shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the Town of Estill Springs may require the installation of a duplicate device.

(p) The Town of Estill Springs shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the Town of Estill Springs. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this ordinance and shall be grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Town of Estill Springs.

(8) Testing of devices. Devices shall be tested at least annually by the Town of Estill Springs by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test will be on file with the Town of Estill Springs and a copy of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. There will be no charge for annual testing. (Ord. #11-387, Oct. 2011)

18-310. Non-potable supplies. The potable water supply made available to premises served by the public water system shall be protected from possible contamination as specified in the provisions of this ordinance. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with Occupational Safety and Health Act (OSHA) guidelines, shall be required in locations where in the judgment of the Town of Estill Springs, such coding is necessary to identify and protect the potable water supply. (Ord. #11-387, Oct. 2011)

18-311. Statement required. Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Town of Estill Springs a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross-connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (Ord. #11-387, Oct. 2011)

18-312. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this ordinance may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross-connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross-connection, auxiliary intake, bypass or interconnection has been eliminated. (Ord. #11-387, Oct. 2011)

18-313. Provision applicable. (1) The requirements contained in this ordinance shall apply to all premises served by the Town of Estill Springs and are hereby made part of the conditions required to be met for the Town of Estill Springs to provide water services to any premises. The provisions of this ordinance shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the ordinance is entitled to a due process hearing upon timely request.

(2) All ordinances and parts of ordinances in conflict with this ordinance shall be hereby repealed; and that this ordinance shall take effect from and after its passage the welfare of the Town of Estill Springs requiring it. (Ord. #11-387, Oct. 2011)

TITLE 19

ELECTRICITY AND GAS

RESERVED FOR FUTURE USE

TITLE 20**MISCELLANEOUS****CHAPTER****1. ESTILL SPRINGS CEMETERY REGULAITONS.****CHAPTER 1****ESTILL SPRINGS CEMETERY REGULATIONS****SECTION**

20-101. Cemetery committee.

20-102. Rules and practices.

20-103. Sale of lots and burial spaces.

20-104. Violations and penalty.

20-101. Cemetery committee. An Estill Springs Cemetery Committee is established to advise the board of mayor and aldermen on matters relating to the operations and administration of the Estill Spring Cemetery, including policy issues, management practices, and service needs. This committee will normally be comprised of not less than five (5), and no more than nine (9) individuals, selected and appointed by the mayor. One (1) member will be an alderman. This committee will meet quarterly (January, April, July, and October) on the third Tuesday, at 3:00 P.M., at town hall. (Ord. #10-378, Aug. 2010)

20-102. Rules and practices. The following rules and practices are hereby established:

(1) The cemetery closes at dusk and reopens at sunrise. Town police will include the cemetery in routine patrols.

(2) Prior to opening a grave, the funeral director **MUST** contact the Estill Springs Town Hall at 931-649-5188 one (1) day prior to work, and apply for a burial permit. A representative of the town shall verify, as best possible, the location at which the burial will take place prior to the issuance of the permit. No fee is charged for this permit. Opening graves must be done by a professional grave service or by approval and supervision of the town representative.

(3) Lot owners will be given a copy of the ordinance comprising this chapter when they purchase lots. Abbreviated rules and regulations will be permanently posted at the cemetery.

(4) The cemetery requires an outer burial container (vault) on all burials. Nothing less than twelve (12) gauge steel or concrete box is accepted. Vantage vaults are prohibited.

(5) The Estill Springs Cemetery Committee will hold an annual cleaning each year, at which time all unsightly floral arrangements will be removed.

(6) No permanent landscaping alteration may be made to any gravesite that would impede maintenance, i.e. planting shrubs, flowers, trees, or other vegetation. Permanent gravesite ornaments, other than the headstone and footstone are prohibited. Edging of gravesites with material that would impede maintenance, such as vegetation, bricks, or paving stones is prohibited upon final passage of this chapter. Edging already in place will be considered to be "grandfathered" and will not be affected by this chapter.

(7) Floral arrangements may be placed on monuments, or on grave sites for burials. However, live arrangements must be presentable at all times, and must be removed after one (1) week of display. Artificial arrangements may be left perpetually on monuments, provided they do not become unsightly and detract from the cemeteries appearance. Decorations must not impede maintenance.

(8) Disposal of decorations must be in the designated containers. Disposal of monuments or other materials must be in a designated area.

(9) The town will maintain a separate checking account, to be called the Estill Springs Cemetery Fund. Funds will be designated for maintenance functions or for improvement functions. Funding for cemetery maintenance will normally come from the cemetery trust fund and from contributions from individuals. Funding for improvements will come from contributions from individuals and from the sale of cemetery lots. Individual contributors may designate which purpose their contributions will serve.

(10) A cemetery lot shall consist of one (1) burial space or one (1) cremains.

(11) All cremains must be placed in an airtight, non-decomposable container (urn) and requires a permanent outer burial container (vault) not constructed of wood.

(12) Due to mowing and other work necessary during the growing season, no decorations will be permitted on graves between March 15th and November 15th, inclusive of each year. Decorations will be permitted for Easter, Memorial Day, Mother's Day, Father's Day, Fourth of July and Veteran's Day provided they are removed within fourteen (14) days after such day.

(13) Due to the danger of broken glass, decorations shall not be placed in glass containers at any time in the cemetery.

(14) Families of the deceased are responsible for the maintenance of monuments. (Ord. #10-378, Aug. 2010, as amended by Ord. #16-419, Oct. 2016)

20-103. Sale of lots and burial spaces. Sale of lots or burial spaces shall be made on an approved form, which grants a right of burial only and does not convey any other title to the lot or burial space sold. Such form shall be executed by the recorder.

Hereafter, interment rights shall be sold for the purpose of the burial of such purchaser or his/her heir(s) at law or next of kin. No sale shall be made to funeral directors or others than as heretofore set forth.

Burial rights may only be transferred to those persons eligible to the original purchasers of cemetery lots or burial spaces within the town and may be effected only by endorsement of an assignment of such burial permit upon the original burial permit form issued by the recorder, approved by said recorder, and entered upon the official records of said recorder.

The board of mayor and aldermen will determine the fair market value of each available lot or burial space. (Ord. #10-378, Aug. 2010)

20-104. Violations and penalty. Violators of any part of this chapter will be notified by the town through certified mail that they have thirty (30) days to remedy the violation or file a written appeal to the board of mayor and aldermen. Any appeal shall be heard at the next town board meeting. When a violation is not remedied within the specified time and no appeal is filed, the Town of Estill Springs Street Department shall remedy the violation. The violator will be assessed a fifty dollar (\$50.00) fine and the cost of labor and materials. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #10-378, Aug. 2010, modified)

APPENDIX A
PLAN OF OPERATION FOR THE OCCUPATIONAL
SAFETY AND HEALTH PLAN FOR EMPLOYEES
OF THE TOWN OF ESTILL SPRINGS

(Ord. #13-397, April 2013)

APPENDIX A**PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY
AND HEALTH PROGRAM PLAN FOR THE EMPLOYEES
OF TOWN OF ESTILL SPRINGS**

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of Town of Estill Springs.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Board of Mayor and Aldermen in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. **COMMISSIONER OF LABOR and Workforce Development** means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. **EMPLOYER** means the Town of Estill Springs and includes each administrative department, board, commission, division, or other agency of the Town.
- c. **SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY DIRECTOR** means the person designated by the establishing ordinance, or executive order, to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of Town of Estill Springs.
- d. **INSPECTOR(S)** means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. **APPOINTING AUTHORITY** means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. **EMPLOYEE** means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. **PERSON** means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. **STANDARD** means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

- i. **IMMINENT DANGER** means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. **ESTABLISHMENT** or **WORKSITE** means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. **SERIOUS INJURY** or **HARM** means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.
- l. **ACT** or **TOSH Act** shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. **GOVERNING BODY** means the County Quarterly Court, Board of Aldermen, Board of Commissioners, Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. **CHIEF EXECUTIVE OFFICER** means the chief administrative official, County Judge, County Chairman, Mayor, Town Manager, General Manager, etc., as may be applicable.

III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

- c. Employer shall refrain from 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 Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEES' RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH 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 Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety 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 Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.

1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

- iii. Has an effective Program Plan for coming into compliance with the standard as quickly as possible.
- 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recording from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORDKEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Safety Director and/or Compliance Inspector(s):
1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
 2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.

- i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
- ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
- iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.

- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This

report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.

- b. Refusal to Abate.
 - 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and/or Chief Executive Officer immediately.
 - 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 - 1. Issue an abatement order to the head of the worksite.
 - 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 - 1. The standard, rule, or regulation which was found to be violated.
 - 2. A description of the nature and location of the violation.
 - 3. A description of what is required to abate or correct the violation.
 - 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and

health standards or any rules or regulations issued pursuant to this Program Plan.

- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann., § 50-3-409 can file a complaint with their agency/safety or Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Signature: Safety Directors, Occupational Safety and Health

Date

APPENDIX I - WORK LOCATIONS

ORGANIZATIONAL CHART

{For this section make a list of each work location wherein the Town of Estill Springs your employees work, such as Street Department, Fire Hall, Town Hall, Courthouse, Jail, Sheriff Department, Each School, etc. covered under this Program Plan. Include, the address for the workplace, phone number at that workplace, and number of employees who work there.}

Town Hall - 3 employees
100 Hudgins Street
Estill Springs, TN 37330
931-649-5188

Police Department - 8 employees
308 South Main Street
Estill Springs, TN 37330
931-649-2233

Street Department - 4 employees
111 Spring Creek Road
Estill Springs, TN 37330
931-649-5145

Water Department - 4 employees
102 East Wilson Street
Estill Springs, TN 37330
931-649-8675

Volunteer Fire Department - 19 volunteers
306 South Main Street
Estill Springs, TN 37330
931-649-2121

TOTAL NUMBER OF EMPLOYEES: 19 regular and 19 volunteer

{Once each work location has been listed, record the total number of employees that the town employees.}

APPENDIX II - NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF Town of Estill Springs

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 Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or Mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

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 Board of Mayor and Aldermen 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 Plan for the Employees of Town of Estill Springs is available for inspection by any employee at Town Hall during regular office hours.

Signature: Mayor

Date

APPENDIX III - PROGRAM PLAN BUDGET

(Either answer questions 1-11 or fill in the statement below)

1. Prorated portion of wages, salaries, etc., for program administration and support
2. Office space and office supplies
3. Safety and health educational materials and support for education and training
4. Safety devices for personnel safety and health
5. Equipment modifications
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel)
8. Safety and health instruments
9. Funding for projects to correct hazardous conditions
10. Reserve fund for the Program Plan
11. Contingencies and miscellaneous

TOTAL ESTIMATED PROGRAM PLAN FUNING

ESTIMATE OF TOTAL BUDGET FOR:

OR Use This Statement

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that Town of Estill Springs has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX IV - ACCIDENT REPORTING PROCEDURES

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours, 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 Safety 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 Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or 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 Safety 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 the occurrence. The supervisor will provide the Safety 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 Safety 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 the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the 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 Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers' Compensation Form 6A or OSHA NO. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employers mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, Town Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ORDINANCE NO. 17-428**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF ESTILL SPRINGS, TENNESSEE.**

WHEREAS some of the ordinances of the Town of Estill Springs are obsolete, and

WHEREAS some of the other ordinances of the Town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Estill Springs, 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 "Estill Springs Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF ESTILL SPRINGS, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the Town of Estill Springs 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 "Estill Springs 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 town or authorizing the issuance of any bonds or other evidence of said town'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 town; any ordinance establishing a social security system or 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 town; 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 town.

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.*

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 mayor and aldermen, 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 town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, 12-7, 2017.

Passed 2nd reading, 1-4, 2018.

James David Kelly
Mayor

Jina Schmidt
Recorder