THE FAIRVIEW MUNICIPAL CODE

Prepared by the





July 2024

CITY OF FAIRVIEW, TENNESSEE

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COMMISSIONERS

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MANAGER

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PREFACE¹

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

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

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

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

¹Whenever in this municipal code of ordinances masculine pronouns are used, the feminine is included.

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

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

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

Abb Oglesby Legal Program Manager

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

- **6-20-214.** Style of ordinances. All ordinances shall begin, "Be it ordained by the city of (here insert name) as follows:." [Acts 1921, ch. 173, art. 5, § 1; Shan. Supp., § 1997a149; Code 1932, § 3546; T.C.A. (orig. ed.), § 6-2025.]
 - **6-20-215.** Ordinance procedure. (a) (1) Except as provided in subdivision (a)(2), every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-22 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.
- (2) Notwithstanding subdivision (a)(1), the board of commissioners governing any city incorporated under chapters 18-22 of this title may adopt ordinances pursuant to a consent calendar if the board unanimously passes an ordinance approving the consent calendar; provided, the ordinance approving the consent calendar shall require that:
 - (A) Each ordinance on the consent calendar be considered on two (2) different days in open session before its adoption and that not less than one (1) week shall elapse between first and second consideration;
 - (B) Copies of each ordinance adopted pursuant to the consent calendar be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading;
 - (C) If any board member objects to an ordinance on the consent calendar or any amendment is adopted to an ordinance on the consent calendar, then the ordinance shall be removed from the consent calendar and may be adopted pursuant to subdivision (a)(1); and
 - (D) Copies of the consent calendar shall be published along with the agenda prior to any meeting at which the consent calendar will be considered.
 - (3) A city that has established a consent calendar pursuant to subdivision (a)(2) may eliminate the consent calendar by passage of an ordinance in the same manner required to create the consent calendar.
- (b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage; provided, that

it shall contain the statement that an emergency exists and shall specify the distinct facts and reasons constituting such an emergency.

- (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.
- (d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended, except by a new ordinance. [Acts 1921, ch. 173, art. 5, § 2; Shan. Supp., § 1997a150; Code 1932, § 3547; T.C.A. (orig. ed.), § 6-2026; Acts 1976, ch. 420, § 1; Acts 1989, ch. 175, § 9; Acts 1995, ch. 13, § 10; Acts 1996, ch. 652, § 4; Acts 2015, ch. 115, § 1.]
- **6-20-216.** Voting by board. In all cases under § 6-20-215, the vote shall be determined by yeas and nays, and the names of the members voting for or against an ordinance shall be entered upon the journal. [Acts 1921, ch. 173, art. 5, § 3; Shan. Supp., § 1997a151; Code 1932, § 3548; T.C.A. (orig. ed.), § 6-2027.]
- **6-20-217.** Recording of ordinances. Every ordinance shall be immediately taken charge of by the recorder and by the recorder be numbered, copied in an ordinance book, filed and preserved in the recorder's office. [Acts 1921, ch. 173, art. 5, § 4; Shan. Supp., § 1997a152; Code 1932, § 3549; T.C.A. (orig. ed.), § 6-2028.]
- **6-20-218.** Publication of penal ordinances—Effective date. (a) Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city.
- (b) No such ordinance shall take effect until the ordinance, or its caption, is published, except as otherwise provided in chapter 54, part 5 of this title. [Acts 1921, ch. 173, art. 5, § 5; Shan. Supp., § 1997a153; Code 1932, § 3550; T.C.A. (orig. ed.), § 6-2029; Acts 1981, ch. 194, § 1; Acts 1984, ch. 811, § 2.; Acts 1989, ch. 175, § 16.]

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

- 1. BOARD OF COMMISSIONERS.
- 2. RECORDER.
- 3. CITY MANAGER.
- 4. MAYOR.
- 5. CODE OF ETHICS.
- 6. ELECTED OFFICIALS COMPENSATION.
- 7. ELECTED OFFICIALS EMPLOYMENT BENEFITS.

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

Municipal code references

Building, plumbing, and gas inspectors: title 12.

Fire department: title 7. Utilities: titles 18 and 19. Water and sewers: title 18.

Zoning: title 14.

¹Charter reference

BOARD OF COMMISSIONERS¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Reimbursement of expenses for the board of commissioners.
- 1-105. Boards and commissions appointed or confirmed by the board of commissioners.
- 1-106. Consent agenda.
- **1-101.** <u>Time and place of regular meetings</u>. (1) The Board of Commissioners of the City of Fairview, Tennessee shall meet on the first and third Thursdays of each and every month. Said meetings to begin at 7:00 P.M. at the City Hall, Fairview, Tennessee.
- (2) The Municipal Planning Commission of the City of Fairview, Tennessee shall meet on the second Tuesday of each and every month. Said meetings to begin at 7:00 P.M. at the City Hall, Fairview, Tennessee. (Ord. #2018-21, Nov. 2018)
- **1-102.** <u>Order of business</u>. An agenda of each meeting's business shall be prepared and distributed to the mayor and each commissioner at least three

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

Appointment and removal of city judge: § 6-21-501.

Appointment and removal of city manager: § 6-21-101.

Compensation of city attorney: § 6-21-202.

Creation and combination of departments: § 6-21-302.

Removal of mayor and commissioners: § 6-20-220.

Subordinate officers and employees: § 6-21-102.

Taxation

Power to levy taxes: § 6-22-108. Change tax due dates: § 6-22-113.

Power to sue to collect taxes: § 6-22-115.

¹Charter reference

- (3) days prior to all regularly scheduled meetings and at least twelve (12) hours of any specially called meeting, and said agenda shall contain the following order of business:
 - (1) Call to order;
 - (2) Roll call
 - (3) Prayer and pledge
 - (4) Mayor comments
 - (5) Citizen comments (limited to three (3) minutes each)
 - (6) Public announcements, awards and recognitions
 - (7) Staff comments and monthly reports
- (8) Consent agenda (any item may be removed for individual consideration)
 - (9) Old business
 - (10) New business
 - (11) Roundtable: mayor and commissioners
- (12) Meeting adjournment (Ord. #862, Jan. 2015; Ord. #2018-21, Nov. 2018, modified)
- **1-103.** General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised*, shall govern the transaction of business by and before the board of commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1996 Code, § 1-105)
- 1-104. Reimbursement of expenses for the board of commissioners. (1) Expenses of commissioners reimbursable. The expenses of Commissioners of the City of Fairview shall be reimbursed by the city.
- (2) <u>Specific expenses and guidelines to be set by resolution</u>. The board of commissioners shall from time to time by resolution promulgate a specific policy of the board which shall establish guidelines for reimbursement of expenses, and which may itemize specific reimbursable expenditures.
- (3) Expense forms required to be submitted. Requests for reimbursement of expenses shall be submitted on expense forms to the city manager, or his designee, and shall be disbursed within the guidelines set by the board of commissioners on a monthly basis. (1996 Code, § 1-107)
- 1-105. <u>Boards and commissions appointed or confirmed by the board of commissioners</u>. (1) Any person/individual who holds a seat (said seat having been designated for and filled by a citizen of the City of Fairview, Tennessee) on any board or commission appointed or confirmed by the Board of Commissioners of the City of Fairview, Tennessee shall upon that person/individual being elected to a seat on the Board of Commissioners of the City of Fairview, Tennessee resign the seat held by them on the board or commission appointed or confirmed by the Board of Commissioners of the City

of Fairview, Tennessee upon the person/individual assuming their elected seat on the Board of Commissioners of the City of Fairview, Tennessee.

- (2) It being the intent that the seats designated for citizens of the City of Fairview, Tennessee, on any board or commission appointed or confirmed by the Board of Commissioners of the City of Fairview, Tennessee be filled by citizens of the City of Fairview, Tennessee not by elected members of the Board of Commissioners of the City of Fairview, Tennessee. (Ord. #951, Feb. 2017)
- 1-106. <u>Consent agenda</u>. A consent agenda item shall be added to the agenda of the City of Fairview, Tennessee at all meetings of said board when in the unanimous opinion of the board, and at the board's discretion, such a consent agenda item will positively affect the conduct of the principal agenda. The consent agenda item when included in the overall agenda to be conducted before the board of commissioners will be conducted as follows:
- (1) A consent agenda may be placed on the principal agenda and presented by the mayor to the board of commissioners at the beginning of a meeting. If any board member objects to an ordinance on the consent calendar, the ordinance shall be removed from the consent calendar and may be adopted pursuant to this subsection (1). If no objection is received to any items on the consent agenda, the consent agenda may be adopted by unanimous vote of the board of commissioners without any further consideration(s).
- (2) All items to be considered on the consent agenda must comply with the following prior to being considered by the board of commissioners:
 - (a) Each ordinance on the consent agenda calendar must be considered on two (2) different days in open session before its adoption and that not less than one (1) week shall elapse between first and second consideration;
 - (b) Copies of each ordinance to be adopted pursuant to the consent agenda calendar must be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading; and
 - (c) If any board member objects to an ordinance on the consent agenda calendar, the ordinance shall be removed from the consent agenda calendar and may be adopted pursuant to subsection (1).
- (3) Citizens of the City of Fairview, Tennessee, who desire any items removed from the consent agenda calendar for discussion by the board of commissioners should communicate their desires for removal of any item(s) with any member of the board of commissioners or the city manager prior to the beginning of the scheduled meeting of the board of commissioners. (Ord. #884, June 2015)

RECORDER¹

SECTION

1-201. To be bonded.

1-201. <u>To be bonded</u>. Pursuant to *Tennessee Code Annotated*, § 6-21-104, the recorder shall, before entering upon his duties, execute a fidelity bond in the amount of five thousand dollars (\$5,000.00) with a surety company authorized to do business in the State of Tennessee as surety.

The cost of this bond shall be paid by the City of Fairview. (1996 Code, \S 1-201)

¹Charter references

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

CITY MANAGER¹

SECTION

1-301. To be bonded.

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

The cost of this bond shall be paid by the City of Fairview. (1996 Code, \S 1-301)

¹Charter reference

For charter provisions outlining the appointment and removal of the city manager, see *Tennessee Code Annotated*, title 6, chapter 21, part 1, particularly § 6-21-101.

$MAYOR^1$

SECTION

- 1-401. Duties of mayor.
- 1-402. Executes city's contracts.
- 1-401. <u>Duties of mayor</u>. The mayor shall perform such duties as provided by the charter and any ordinances duly enacted by the board of commissioners consistent with the charter.
- **1-402.** Executes city's contracts. The mayor shall execute all contracts as authorized by the board of commissioners.

¹Charter reference:

Compensation of mayor: § 6-20-204. Duties of vice mayor: § 6-20-203. Election of mayor: § 6-20-201. Powers of mayor: § 6-20-213.

CODE OF ETHICS¹

SECTION

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

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

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

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

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

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

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

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

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

- 1-501. <u>Applicability</u>. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.
- **1-502.** <u>**Definition of "personal interest."**</u> (1) For purposes of §§ 1-503 and 1-504, "personal interest" means:
 - (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests;
 - (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
 - (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).
- (2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.
- (3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.
- 1-503. <u>Disclosure of personal interest by official with vote</u>. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure.
- 1-504. <u>Disclosure of personal interest in non-voting matters</u>. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

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

- **1-505.** Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:
- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.
- **1-506.** <u>Use of information</u>. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- (2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.
- 1-507. <u>Use of municipal time, facilities, etc</u>. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
- (2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.
- **1-508.** <u>Use of position or authority</u>. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.
- **1-509.** Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.
- **1-510.** Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
 - (2) (a) Except as otherwise provided in this subsection (2), the city attorney shall investigate any credible complaint against an appointed

official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

- (b) The city attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.
- (c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.
- (3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.
- (4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.
- 1-511. <u>Violations and penalty</u>. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

ELECTED OFFICIALS COMPENSATION

SECTION

- 1-601. City mayor compensation.
- 1-602. City commissioner compensation.
- 1-603. General sessions court judge compensation.
- 1-604. General sessions court clerk compensation.
- **1-601.** <u>City mayor compensation</u>. Effective January 1, 2023, and in accordance with § 6-20-204 of the Fairview City Charter, the compensation of the city mayor shall be one thousand dollars (\$1,000.00) per month and shall be payable on the last regular city payroll distribution of each month. (Ord. #2019-32, Jan. 2020)
- 1-602. <u>City commissioner compensation</u>. Effective January 1, 2021, and in accordance with § 6-20-204 of the Fairview City Charter, the compensation of each city commissioner shall be nine hundred fifty dollars (\$950.00) per month and shall be payable on the last regular city payroll distribution of each month. (Ord. #2019-32, Jan. 2020)
- **1-603.** General sessions court judge compensation. Effective January 1, 2021, the compensation for the city's general sessions court judge shall be not less than two thousand two hundred dollars (\$2,200.00) per month and shall be payable on the last regular city payroll distribution of each month. (Ord. #2019-32, Jan. 2020)
- 1-604. General sessions court clerk compensation. Effective January 1, 2021, the compensation for the city's general sessions court clerk shall not be less than the applicable annual salary prescribed in the most recently adopted Trustee, Clerks of Court, County Clerk and Register Deeds Fiscal Year Salary Schedule pursuant to Tennessee Code Annotated, § 8-24-102. The general sessions court clerk shall be paid on the same payroll distribution schedule as are full-time employees of the City of Fairview. (Ord. #2019-32, Jan. 2020)

ELECTED OFFICIALS EMPLOYMENT BENEFITS

SECTION

- 1-701. Part-time elected officials employment benefits.
- 1-702. Full-time elected officials employment benefits.
- **1-701.** Part-time elected officials employment benefits. (1) The city mayor, each city commissioner and the city's general sessions court judge are part-time elected positions for the city.
- (2) Effective January 1, 2021, each city commissioner and the city's general sessions court judge shall be eligible to participate in the city's health insurance plan offered to its full-time city employees. This participation in the city's health insurance plan shall be done so with one hundred percent (100%) of the plan participation cost being paid by the elected official and no subsidy or offset being paid by the city.
- (3) Effective January 1, 2023, the city mayor shall be eligible to participate in the city's health insurance plan offered to its full-time city employees. This participation in the city's health insurance plan shall be done so with one hundred percent (100%) of the plan participation cost being paid by the elected official and no subsidy or offset being paid by the city. (Ord. #2019-33, Jan. 2020)
- **1-702.** Full-time elected officials employment benefits. (1) Elected officials shall be considered full-time if their duties require an average of thirty (30) hours of service per week or one hundred thirty (130) hours of service per month, or as full-time is otherwise defined by the Fair Labor Standards Act (FLSA, being 29 U.S.C. §§ 201, et seq.).
 - (2) The city's general sessions court clerk is a full-time elected position.
- (3) Upon the installation to office of the city's general sessions court clerk elected in the City of Fairview 2020 general elections, and for each day thereafter that the city has a general sessions court clerk, the clerk shall be eligible for the following employment benefits:
 - (a) Participation in the city's health insurance plan offered to full-time city employees, and at the same contribution rates and/or subsidies offered to full-time city employees; and
 - (b) Participation in the city's retirement plan offered to full-time city employees, and at the same contribution rates and/or subsidies offered to full-time city employees.
- (4) Full-time elected positions created after the passage of this section shall be afforded eligibility for full-time employment benefits as specified and described in subsections (3)(a) and (3)(b).

(5) Full-time elected officials shall not be eligible for any employment benefits other than those specified and described in subsections (3)(a) and (3)(b). (Ord. #2019-33, Jan. 2020, modified)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. HISTORICAL PRESERVATION COMMISSION ORDINANCE.

CHAPTER 1

HISTORICAL PRESERVATION COMMISSION ORDINANCE

SECTION

- 2-101. Purpose and intent.
- 2-102. Definitions.
- 2-103. Establishment of historical districts.
- 2-104. Historic preservation commission; membership terms and administrative matters.
- 2-105. Amendments to historic district designations.
- 2-106. Application for certificates from the commission.
- 2-107. Meetings of the commission.
- 2-108. Process of appealing determinations of the commission.
- 2-109. Enforcement.
- 2-110. Limited coverage.
- 2-111. Amendments to chapter.
- 2-112. Designation of historic districts.
- **2-101.** Purpose and intent. It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of historical resources or value is a public necessity and is required in the interest of education, prosperity, safety and welfare of all the citizens of the City of Fairview, Tennessee.

The purpose of this chapter is to:

- (1) Protect, enhance and preserve cultural and historical resources, including those districts which represent or reflect elements of the city's cultural, social, economic, political or architectural history;
- (2) Safeguard the city's historical and cultural heritage by improving historical and cultural resources by creating historic districts;
- (3) Foster wider public awareness of and pride in accomplishments of the past;
- (4) Encourage private efforts of Fairview, Tennessee citizens in support of such purposes;
- (5) Promote the use of historic districts as a stimulus to local business and industry; and

- (6) Enhance the city's image to residents, visitors and tourists and make the city a more attractive and desirable place in which to live and work. (1996 Code, § 2-401)
- **2-102.** <u>**Definitions**</u>. In this chapter, unless the context clearly requires otherwise:
- (1) "Altered" means and includes the words "rebuilt," "reconstructed," "restored," "removed" and "demolished" and the phrases "changed in exterior color" and "any alteration to exterior physical appearance or exterior architectural feature visible from a public way."
- (2) "Building" means a combination of materials forming a shelter for persons, animals or property.
- (3) "Commission" means the historic preservation commission created pursuant to this chapter.
- (4) "Constructed" means and includes the words "built," " erected," "installed," "enlarged" and "moved."
- (5) "Exterior architectural feature" means such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including, but not limited to, the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.
- (6) "Historic district" means an area designated in accordance with § 2-203 that contains one (1) or more parcels or lots of land, or one (1) or more buildings or structures on one (1) or more parcels or lots of land.
- (7) "Person aggrieved" means the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred feet (100') of said property lines and any charitable corporation in which one (1) of its purposes is the preservation of historic structures or districts.
- (8) "Structure" means a combination of materials other than a building, including a sign, fence, wall, hitching post, terrace, walk or driveway. (1996 Code, § 2-402)
- **2-103.** Establishment of historic districts. The City of Fairview, Tennessee may, by ordinance adopted by a majority vote of the board of commissioners, establish historic districts subject to the following provisions:
- (1) <u>Process</u>. Prior to the establishment of any historic district in Fairview, Tennessee, an investigation and report on the historical and architectural significance of the buildings, structures or sites to be included in the proposed historic district or districts shall be made by a historic district study committee or by a historic district commission, as provided in this section. The buildings, structures or sites to be included in the proposed historic district

may consist of one (1) or more parcels or lots of land, or one (1) or more buildings or structures on one (1) or more parcels or lots of land.

The study committee or the commission shall transmit copies of the report to the planning commission and to the Tennessee Historical Commission for their respective consideration and recommendations.

Not less than sixty (60) days after such a transmittal, the study committee or commission shall hold a public hearing on the report after due notice given at least fourteen (14) days prior to the date thereof, which shall include a written notice, given by certified mail, postage prepaid, return receipt requested, to the owners as they appear on the most recent real estate tax list of the Williamson County Tax Assessor or trustee of all properties to be included in such district or districts. The committee shall submit a final report with its recommendations, a map of the proposed district or districts and a draft of a proposed ordinance to the board of commissioners.

(2) <u>Formation of historic district study committee</u>. A historic district study committee may be established in Fairview, Tennessee by a majority vote of the board of commissioners for the purpose of making an investigation of the desirability of establishing a historic district or districts therein. The study committee shall consist of not less than three (3) nor more that seven (7) members appointed by the mayor, and confirmed by the board of commissioners. (1996 Code, § 2-403)

2-104. <u>Historic preservation commission; membership terms and</u> administrative matters. (1) Terms. The ordinance shall be administered by a historic preservation committee with the following terms, composition and administrative matters. The historic preservation commission shall consist of seven (7) members, appointed by the mayor and subject to confirmation by the board of commissioners. All of the members shall be residents of the City of Fairview, Tennessee. Each member shall serve for a term of three (3) years; except that the initial appointments shall be for two (2) members to serve a term of one (1) year, two (2) members to serve a term of two (2) years, and three (3) members to serve a term of three (3) years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the commission, all actions taken will be decided by a majority vote of a quorum present and voting. Each member shall continue in office after expiration of his or her term until a successor is duly appointed and qualified.

(2) <u>Composition</u>. The commission membership shall be composed of the following: one (1) member, preferably a professional architect or historian, one (1) licensed real estate broker, real estate agent, or licensed building contractor, one (1) member of the city planning commission chosen by the planning commission members, one (1) member of the board of commissioners and three (3) citizen members who, through education or experience, have demonstrated

a commitment to historic preservation. If, within thirty (30) days after the submission of a written request for nominees to any of the above-named positions, no such nominations have been submitted, the mayor may make such an appointment, subject to approval by the board of commissioners, without nomination by any organization or entity. To the extent a person meets more than one (1) of the foregoing specific membership requirements, then each such specific membership requirement so met shall be satisfied by such person's membership on the commission.

- (3) <u>Compensation</u>. No member shall receive compensation for his or her service on the commission, but shall be reimbursed, subject to availability of appropriated funds, for his or her actual expenses reasonably and necessarily incurred in performance of his or her official duties.
- (4) <u>Conflict of interest</u>. If any commission member or alternate is an employee of the City of Fairview, Tennessee or has directly or indirectly a financial interest in any contract with the city, the conflict or possible conflict of interest shall be dealt with in accordance with the laws of the State of Tennessee in effect at the time the conflict or potential conflict arises.
- (5) Officers. The historical commission shall elect before the end of its fourth regular meeting during the first year, and every July thereafter, a chairman, vice-chairman, and a secretary. All officers, shall be elected from its own members. Whenever the secretary shall not attend a meeting of the commission, the commission shall elect a secretary pro-tempore who shall take the minutes of the meeting. The records of the commission shall set forth every determination made by the commission, the vote of every member participating in such determination and the absence or failure to vote of every other member.
- of commissioners for approval that the city enter into contracts to employ clerical and technical assistance of consultants and incur other expenses appropriate to the carrying on of its work. Any and all such contracts must be approved by the board of commissioners and issued in the name of and under the authority of the City of Fairview, Tennessee. The commission nor any commissioner shall have no separate authority to contract with any person or entity in the name of the commission or the City of Fairview, Tennessee.
- (7) <u>Gifts</u>. The commission may, upon approval by the board of commissioners, accept money gifts and expend the same for the carrying on of its work. The commission may also administer on behalf of the city any properties or easements, restrictions or other interests in real property which the city may have or may accept as gifts or otherwise and which the city may designate the commission as the administrator thereof.
- (8) Record keeping and rules. The commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of this chapter and prescribe such forms as it shall deem desirable and necessary for the regulations of its

affairs and the conduct of its business. The commission shall file a copy of any such rules and regulations with the city clerk. An annual report of the commission's activities shall be filed with the City Clerk of the City of Fairview, Tennessee for filing as a permanent record of the City of Fairview, Tennessee.

(9) Other powers. The commission shall have, in addition to the powers, authority and duties granted to it by this chapter, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the Board of Commissioners of the City of Fairview, Tennessee. (1996 Code, § 2-404)

2-105. Amendments to historic district designations.

- (1) Enlargements or reductions. A historic district may be enlarged or reduced or an additional historic district in the city created in the manner established under § 2-203 for creation of the initial district, except that in the case of the enlargement or reduction of an existing historic district, the investigation, report and hearing shall be by the historic preservation commission having jurisdiction over such historic district instead of by a study committee.
- (2) <u>Additional districts</u>. In the case of creation of an additional historical district, the investigation, report and hearing shall be by the city historic preservation commission instead of by a study committee unless the commission recommends otherwise.
- (3) <u>Notice</u>. If the district is to be reduced, written notice, as provided in § 2-203 for the creation of the initial district, shall be given to said owners of each property in the district.
- (4) <u>Filing requirements</u>. No changes to the boundaries of a historic district shall become effective until a map(s) setting forth the changes to the boundaries of the historic district has been filed with the city clerk. (1996 Code, § 2-405)

2-106. Application for certificates from the commission.

(1) <u>Considerations of commission</u>. In passing upon matters before it, the commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the commission may in appropriate cases recommend to the City of Fairview, Tennessee Planning Commission the imposition of dimensional and setback requirements in addition to those required by applicable ordinance

or bylaw. The commission shall not consider interior arrangements or the categories of exclusions specified in subsection (3).

The commission may, after public hearing, set forth in such manner as it may determine the various designs of certain appurtenances, such as light fixtures, which will meet the requirements of a historic district and a roster of certain colors of paint and roofing materials which will meet the requirements of a historic district, but no such determination shall limit the right of an applicant to present other designs or colors to the commission for its approval.

The commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.

(2) <u>Submission requirements</u>. Except for the exclusions noted in subsection (3), no building or structure within a historic district shall be constructed or altered in any way that affects exterior architectural features unless the commission shall first have issued a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship with respect to such construction or alteration to the original requestor and a copy sent to the Fairview, Tennessee Planning Commission.

Any person who desires to obtain a certificate shall file with the commission an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal, a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within a historic district and no demolition permit for demolition (full or partial) or removal of a building or structure within a historic district shall be issued by the City of Fairview, Tennessee Codes Department until the certificate required by this section has been issued by the commission.

- (3) <u>Exclusions</u>. The authority of the commission shall not extend to the review of the following categories of buildings, structures or exterior architectural features of the historic district and, in this event, the buildings, structures or exterior architectural features so excluded may be constructed or altered within the historic district without review by the commission:
 - (a) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the commission may reasonably specify;
 - (b) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, lawn statuary and similar appurtenances, or any one (1) or more of them;

- (c) The color of paint;
- (d) Signs which are in full compliance with the City of Fairview, Tennessee sign ordinance(s); and
- (e) The reconstruction, substantially similar in exterior design, type of use and size of a building, structure or exterior architectural feature damaged or destroyed by storm or other disaster; provided such reconstruction is begun within one (1) year thereafter and carried forward with due diligence; and upon request by an applicant, the commission shall issue a certificate on non-applicability with respect to construction or alteration in any category not subject to review by the commission in accordance with the above provisions.
- (4) <u>Commission powers and duties</u>. The commission shall have the following powers, functions and duties related to issuance of certificates:
 - If the commission determines that the construction or alteration for which an application for a certificate of appropriateness that has been filed will be appropriate for or compatible with the preservation or protection of the historic district, the commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of a disapproval of an application for a certificate of appropriateness, the commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefor as set forth in the records of the commission, to be issued the applicant. The commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, and similar features. Prior to the issuance of any disapproval, the commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the commission. The commission shall, as feasible, identify sources of additional information, technical assistance and financial incentives, which may eliminate the area of concern. If, within fourteen (14) days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the commission, the commission shall cause a certificate of appropriateness to be issued to the applicant.
 - (b) In the case of determination by the commission that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature, or involves an exterior architectural feature which is not then subject to review by the commission in accordance with the provisions of subsection (3), the commission shall cause a certificate of non-applicability to be issued to the applicant.
 - (c) The commission shall determine if the construction or alteration for which an application for a certificate of appropriateness has

been filed is inappropriate, or in the event of an application for a certificate of hardship, the commission shall determine if, owing to conditions especially affecting the building or structure involved (e.g. handicapped access), but not affecting the historic district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant. The commission shall also determine whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this chapter. If the commission determines that owing to such conditions, failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, or in the event of failure to make a determination on an application within the time specified in § 2-207, the commission shall cause a certificate of hardship to be issued to the applicant.

- (d) Each certificate issued by the commission shall be dated and signed by its chairman, vice-chairman, secretary or such other person designated by the commission to sign such certificates on its behalf. Each certificate issued by the commission shall also be accompanied by a document, substantiating in sufficient detail, the basis of the determination. Certificates are valid for one (1) full year from the date of issuance and must be revalidated by the commission if substantial work has not been completed by the end of this period.
- (e) The commission shall file with the city clerk and with the city codes department a copy or notice of all certificates, determinations of disapproval and substantiating documents issued by it. (1996 Code, § 2-406)
- **2-107.** <u>Meetings of the commission</u>. (1) <u>Voting</u>. The commission shall hold meetings at the call of the chairman or at the request of two (2) members of the commission, and in such other manner as the commission shall determine in it rules. A majority of the members of a commission shall constitute a quorum. The concurring vote of a majority of the members of the commission shall be necessary to issue a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship.
- (2) Review of application. The commission shall determine promptly, and in all events within fourteen (14) days after the filing of an application for a certificate of appropriateness; a certificate of non-applicability or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the commission. If the commission determines that such application involves any such features which are subject to approval by the commission, the commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.

- (3) <u>Hearing an application</u>. The commission shall fix a reasonable time for the hearing on an application and shall give public notice of the time, place and purposes thereof at least fifteen (15) days before said hearing in a newspaper of general local circulation, and by mailing, postage prepaid, a copy of such notice to the applicant, to the owners of all adjoining property and other property deemed by the commission to be material affected thereby as they appear on the most recent real estate tax list of the Williamson County tax assessor or trustee, to the city planning commission and board of commissioners, to any person filing a written request for notice of hearing, such request to be renewed yearly in December, and to such other persons as the commission shall deem entitled to notice.
- (4) <u>Period of determination</u>. As soon as convenient after such public hearing, but in any event within forty-five (45) days after the filing of the application, or within such further time as the applicant may allow in writing, the commission shall make a determination on the application. If the commission shall fail to make a determination within such period of time, the commission shall thereupon issue a certificate of hardship. (1996 Code, § 2-407)

2-108. Process of appealing determination of the commission.

- (1) <u>Initial appeal</u>. A person aggrieved by a determination of the commission may, within twenty (20) days after the filing of the notice of such determination with the city clerk, appeal to the City of Fairview, Tennessee, Board of Commissioners.
- (2) <u>Court option</u>. A person aggrieved who receives an adverse decision from the initial appeal to the City of Fairview, Tennessee, Board of Commissioners may exercise their right to appeal to the appropriate court of the State of Tennessee in accordance with the then existing statutes and rules of procedure of the State of Tennessee.
- (3) <u>Costs</u>. Costs of the initial appeal to the Board of Commissioners of the City of Fairview, Tennessee shall not be allowed against the commission unless it shall appear to the board of commissioners that the commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. In all cases appealed to the courts of the State of Tennessee, cost shall be awarded by the court hearing the appeal. (1996 Code, § 2-408)
- **2-109.** Enforcement. The appropriate court(s) of the State of Tennessee shall have jurisdiction to enforce the provisions of this chapter and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the board of commissioners, after recommendation of the commission, restrain by injunction violations thereof; and, without limitation, such court(s) may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered

or demolished in violation thereof, and may issue such other orders for relief as may appear equitable to the court(s).

Whoever violates any of the provisions of this chapter shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Each day during any portion of which a violation continues to exist shall constitute a separate offense. (1996 Code, § 2-409)

- **2-110.** <u>Limited coverage</u>. Nothing in this chapter shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature within a historic district which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this chapter. (1996 Code, § 2-410)
- 2-111. Amendments to chapter. This chapter enabling the creation of historic districts may from time to time be amended in a manner not inconsistent with the provisions of the statutes of the State of Tennessee and the City of Fairview, Tennessee Municipal Code, by a majority vote of the board of commissioners; provided that the substance of such amendment has first been submitted to the historic preservation commission for their recommendation and their recommendations have been received, or least thirty (30) days have elapsed without receipt of such recommendations. This section shall not be construed in any manner to direct or imply that the board of commissioners cannot amend this chapter in compliance with the provisions heretofore outlined. (1996 Code, § 2-411)
- **2-112.** Designation of historic districts. There are hereby established under the provisions of the Statutes of the State of Tennessee and the City of Fairview, Tennessee Municipal Code, historic districts bounded as shown on the map, which is made a part of this chapter by reference as fully as if copied herein verbatim. (1996 Code, § 2-412)

¹A copy of the historic district map shall be kept in the city recorder's office, and is available to the public during normal business hours.

TITLE 3

MUNICIPAL COURT¹

CHAPTER

- 1. CITY COURT.
- 2. CITY JUDGE.
- 3. COURT ADMINISTRATION.

CHAPTER 1

CITY COURT

SECTION

3-101. City court established.

3-101. <u>City court established</u>. A city court for the City of Fairview, Tennessee is established. (1996 Code, § 3-101)

¹Charter references

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

City court operations:

Appeals from judgment: \S 6-21-508. Appearance bonds: \S 6-21-505.

Arrest warrants: § 6-21-504. Docket maintenance: § 6-21-503.

Fines and costs:

Amounts: §§ 6-21-502, 6-21-507.

Collection: § 6-21-507. Disposition: § 6-21-506.

City judge:

Appointment and term: § 6-21-501.

Jurisdiction: § 6-21-501. Qualifications: § 6-21-501.

CITY JUDGE

SECTION

- 3-201. Jurisdiction.
- 3-202. Qualifications.
- 3-203. Election and term.
- 3-204. Vacancies.
- 3-205. Salary.
- **3-201.** <u>Jurisdiction</u>. (1) <u>Municipal jurisdiction</u>. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty up to the maximum allowed under state law, and costs prescribed by ordinance.
- (2) <u>Concurrent jurisdiction</u>. The city judge shall also have the authority to exercise jurisdiction concurrent with courts of general sessions in all cases involving the violation of the criminal laws of the state within the corporate limits of the city. (1996 Code, § 3-201)
- **3-202. Qualifications**. The city judge shall be licensed to practice law in the State of Tennessee, at least thirty (30) years of age and a resident of the jurisdiction where they serve. (Ord. #2020-05, May 2020)
- **3-203.** Election and term. In accordance with art. VI, § 3 of the Tennessee Constitution, at the August general election of 1998, and every eight (8) years thereafter during the August general election, the city judge shall be elected by the qualified voters of the city for a term of eight (8) years, and the city judge shall take office on September 1 next following his or her election. However, the office of city judge during the interim period between the passage of this code amendment and September 1, 1998, shall be filled as follows:
- (1) The board of commissioners shall appoint a city judge to serve until the next regular August general election falling at least one hundred eighty (180) days after his or her appointment, or until September 1, 1998, if the next regular August general election falls within one hundred eighty (180) days of September 1, 1998.
- (2) At the next regular August general election, August 4, 1994, the qualified voters of the city shall elect a city judge to serve until September 1, 1998. (1996 Code, § 3-203, modified)
- **3-204.** <u>Vacancies</u>. Vacancies in the office of city judge shall be filled by the board of commissioners for the unexpired portion of the term. (1996 Code, § 3-204)

3-205. Salary. The salary of the Municipal Court Judge for the City of Fairview, Tennessee is hereby set as thirty-six thousand dollars (\$36,000.00) annually for the elected term beginning on August 8, 2006, for as long as the Municipal Court of the City of Fairview, Tennessee, exercises concurrent, general sessions jurisdiction. Said salary shall be paid in installments as agreed upon by the city and the municipal court judge. (Ord. #2020-06, May 2020, modified)

COURT ADMINISTRATION

SECTION

- 3-301. Municipal court clerk.
- 3-302. Imposition of fines, penalties and costs.
- 3-303. Records.
- 3-304. Dockets.
- **3-301.** <u>Municipal court clerk</u>. The municipal court clerk shall be a full-time elected position of the City of Fairview whose term shall be concurrent with the Williamson County Court Clerk's. The qualifications for the office of municipal court clerk are that the court clerk must be a resident of Williamson County, must be at least twenty-one (21) years of age and must be a qualified voter. (Ord. #2020-04, May 2020)
- **3-302.** <u>Imposition of fines, penalties and costs</u>. The schedule of fees set out in *Tennessee Code Annotated*, § 8-21-401 (when applicable to the City Court of the City of Fairview, Tennessee when said court is exercising its current general sessions jurisdiction relative to criminal offenses), and the fees set out in Schedule "A" is made part of this section by reference per *Tennessee Code Annotated*, § 16-18-304 (applicable to all violations of City of Fairview, Tennessee Municipal Ordinances).

Schedule "A" may be amended as required from time to time by resolution of the Board of Commissioners of the City of Fairview, Tennessee at any regular scheduled meeting or by special meeting called in accordance with applicable law at the time the special meeting is called. (1996 Code, § 3-302)

- **3-303.** Records. The municipal court clerk shall have the duty of maintaining all records of the municipal court, whether or not the municipal court has concurrent general sessions jurisdiction, in accordance with all applicable local, state and federal rules, procedures, guidelines, ordinances and laws. The municipal court clerk shall have the duty to ensure that any and all receipts, uses, transmissions, reporting and safeguarding of all municipal court records are done in accordance with all applicable local, state and federal rules, procedures, guidelines, ordinances and laws. (Ord. #2020-07, May 2020)
- **3-304. Dockets**. (1) The municipal court clerk shall have the duty of the proper maintenance of the city's court docket. The city manager shall have the

¹Schedule "A" is available in the office of the city recorder.

authority to hire a court staff to assist the court clerk in the administration of the court docket and the functions of the court.

There shall be a minimum of twenty-four (24) court sessions each calendar year, including at least one (1) court date each month. In November of each year, the city court judge shall establish the court dates for the subsequent calendar year. Court dates for each calendar year shall be posted by the court clerk prior to January 1 of each calendar year. The city judge shall have the authority to add court dates, as needed, and shall also have the authority to cancel scheduled court dates if such cancellations are in the best interest of all participants of the court or as directed to do so by a higher court. (Ord. #2020-08, May 2020)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

- 1. PERSONNEL REGULATIONS.
- 2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.
- 3. TRAVEL REIMBURSEMENT REGULATIONS.
- 4. HEALTHY WORKPLACE ACT.

CHAPTER 1

PERSONNEL REGULATIONS

SECTION

4-101. Personnel rules and regulations.

4-101. Personnel rules and regulations. The personnel rules and regulations for the City of Fairview are adopted herein as if set out verbatim.

¹The Personnel Rules and Regulations for the City of Fairview, Ord. #2024-10 dated June 20, 2024, and any amendments thereto, are available in the office of the recorder.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

SECTION

4-201. Adopted by reference.

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

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Purpose.
- 4-302. Enforcement.
- 4-303. Travel policy.
- 4-304. Travel reimbursement rate schedules.
- 4-305. Administrative procedures.
- **4-301. Purpose**. The purpose of this chapter and referenced regulations is to bring the city into compliance with *Tennessee Code Annotated*, § 6-54-901–907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

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

- **4-302. Enforcement**. The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations.
- 4-303. <u>Travel policy</u>. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.
- (2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

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

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

- (4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.
- (5) The travel expense reimbursement form will be used to document all expense claims.
 - (6) To qualify for reimbursement, travel expenses must be:
 - (a) Directly related to the conduct of the city business for which travel was authorized; and
 - (b) Actual, reasonable and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

- (7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee and other reimbursable costs.
- (8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.
- (9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement.
- **4-304.** <u>Travel reimbursement rate schedules</u>. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

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

4-305. Administrative procedures. The city adopts and incorporates by reference—as if fully set out herein—the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State

of Tennessee. A copy of the administrative procedures is on file in the office of the recorder. 1

¹State law reference

Tennessee Code Annotated, § 6-54-904, requires a city to notify the comptroller in writing that it has adopted the MTAS policy, including the date of such adoption.

HEALTHY WORKPLACE ACT

SECTION

- 4-401. Healthy workplace act.
- 4-402. Model abusive conduct prevention policy.
- **4-401.** <u>Healthy workplace act</u>. The General Assembly of the State of Tennessee in the 108th Session Enacted Public Chapter Number 997, said public chapter amended *Tennessee Code Annotated*, title 50, chapter 1 by adding *Tennessee Code Annotated*, §§ 50-1-501, 50-1-502, 50-1-503 and 50-504. (Ord. #875, May 2015)
- **4-402.** Model abusive conduct prevention policy. Pursuant to Public Chapter 997, the Healthy Workplace Act is hereby added and adopted by reference. (Ord. #875, May 2015)

TITLE 5

MUNICIPAL FINANCE AND TAXATION1

CHAPTER

- 1. MISCELLANEOUS.
- 2. REAL PROPERTY TAXES.
- 3. LOCAL SALES TAX.
- 4. WHOLESALE BEER TAX.
- 5. BUSINESS TAX.
- 6. ADEQUATE FACILITIES TAX.
- 7. SALE OF CITY PROPERTY.
- 8. HOTEL/MOTEL TAX.
- 9. FUND BALANCE POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Restrictions on expenditures by city manager.
- 5-102. Fiscal year of the city.
- 5-103. Official depository for city funds; city manager authorized to sign checks.
- 5-104. Competitive bidding; when required; procedure.
- 5-105. Budget amendments require specific appropriation increases or corresponding reduction in expenditures.
- **5-101.** Restrictions on expenditures by city manager. The city manager is hereby authorized to expend a maximum amount of twenty-five thousand dollars (\$25,000.00) for materials, supplies, and equipment for the proper conduct of the city's business without specific authorization of the board of commissioners.

Any expenditure by the city manager in excess of twenty-five thousand dollars (\$25,000.00) in any one (1) single transaction shall only be made upon the specific authorization of the board of commissioners. (1996 Code, § 5-101, as amended by Ord. #2023-12, Jan. 2024)

Finance and taxation: title 6, chapter 22.

¹Charter reference

- **5-102.** Fiscal year of the city. The fiscal year of the City of Fairview, Tennessee, shall begin on July 1 of each year and end on June 30 of the following year. (1996 Code, § 5-102)
- 5-103. Official depository for city funds; city manager authorized to sign checks. The official depository for the funds of the City of Fairview, Tennessee, shall be designated by resolution of the Board of Commissioners of the City of Fairview, Tennessee, as adopted by a vote of the majority of the members of the board of commissioners from time to time for that purpose. Such depository for the funds of the City of Fairview, Tennessee, shall be in a banking institution duly chartered by the State of Tennessee or the United States of America and insured by the Federal Deposit Insurance Corporation (FDIC) or its equivalent. (1996 Code, § 5-103)

5-104. Competitive bidding; when required; procedure.

- (1) No purchase or contract shall be executed on behalf of the City of Fairview, Tennessee, wherein the aggregate amount of the purchase or contract exceeds twenty-five thousand dollars (\$25,000.00), except upon advertisement for bids.
- (2) Notwithstanding the provisions of § 5-104(1), advertisement for bids shall not be required when the purchase or contract to be executed on behalf of the City of Fairview, Tennessee (regardless of the amount of the contract) is exempt or may be exempt from the requirement for bids under the following statutes of the State of Tennessee:
 - (a) Tennessee Code Annotated, § 6-19-104, and its successors;
 - (b) Tennessee Code Annotated, § 6-56-302, and its successors;
 - (c) Tennessee Code Annotated, § 6-56-304, and its successors; or
 - (d) Tennessee Code Annotated, § 12-3-1212, and its successors.
- (3) At least three (3) written quotations are required when possible, for purchases costing less than the bid threshold established under § 5-104(1), but more than ten thousand dollars (\$10,000.00).
- (4) The advertisement for bids shall be published in a newspaper of general circulation in the City of Fairview, Tennessee. It shall set forth the nature of the purchase or contract, the location of the plans and specifications, if any, and the date, time, and place the bids will be received and opened.
- (5) The purchase shall be made from, or the contract shall be awarded to, the lowest and best bidder; provided, that the city commission, for good cause shown, may reject any and all bids. (1996 Code, § 5-104, as amended by Ord. #2023-12, Jan. 2024)
- 5-105. <u>Budget amendments require specific appropriation</u> increases or corresponding reduction in expenditures. Prior to the approval of any amendment to the annual budget that would increase appropriations for the expenditure of city funds, the board of commissioners

shall approve a resolution¹ that identifies a corresponding source of funds to cover the proposed additional expenditure, and/or identifies a corresponding reduction in expenditure to compensate for the proposed additional expenditure. (1996 Code, § 5-105)

¹A sample form of this resolution is attached to Ord. #296, which is of record in the office of the recorder.

REAL PROPERTY TAXES¹

SECTION

5-201. Levy.

5-202. When due and payable.

5-203. When delinquent-penalty and interest; payment.

5-201. Levy. All real property within the corporate limits of the City of Fairview (except such property as is or shall be exempt by the Laws of the State of Tennessee or of the United States) shall pay a tax in such amount as may be levied by ordinance, from time to time, as provided by the charter to and for the use of the City of Fairview, on each one hundred dollars (\$100.00) of assessed valuation of such property, and a proportional amount of each fraction of valuation under one hundred dollars (\$100.00); all of said taxes to be collected by the Williamson County Trustee for the purposes set forth in the charter. (1996 Code, § 5-201, modified)

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.

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 each succeeding month.

¹State law references

- **5-202.** When due and payable. Taxes levied by the city against real property shall become due and payable annually on and after October 1 for the year in which assessed. (1996 Code, § 5-202)
- **5-203.** When delinquent–penalty and interest; payment. ² (1) When delinquent--penalty and interest. All unpaid real property taxes shall become delinquent on March 1 following the year in which same are assessed; and shall thereupon be subject to the same penalty and interest as is prescribed by law for delinquent county taxes. ³
- (2) When paid by mail. All unpaid real property taxes paid by mail shall be processed and shall become delinquent in accordance with *Tennessee Code Annotated*, § 67-1-107, as it exists on the date of passage of this amended section and as it may be amended from time to time by the legislature of the State of Tennessee.
- (3) When due date falls on Saturday or Sunday. All unpaid real property taxes paid in person shall be processed and shall become delinquent in accordance with *Tennessee Code Annotated*, § 4-1-402, as it exists on the date of

¹Charter references

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

²Charter reference

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

³Charter reference

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

State law reference

A municipality has the option of collecting delinquent property taxes any one (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*, § 67-5-2005.

passage of this amended section and as it may be amended from time to time by the legislature of the State of Tennessee.

(4) This section shall be retroactive to March 1, 2004, and the City Manager of Fairview, Tennessee, is authorized to refund all interest and penalties collected to any and all taxpayers of the City of Fairview, Tennessee whose payments of taxes would have been in compliance with this section as amended. (1996 Code, § 5-203)

LOCAL SALES TAX¹

SECTION

5-301. Levied.

- **5-301.** <u>Levied</u>. (1) As authorized by *Tennessee Code Annotated*, § 67-6-701, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailers' Sales Tax Act under *Tennessee Code Annotated*, title 67, chapter 6, as the same may be amended, which are exercised in the City of Fairview, Tennessee. The tax is levied on all such privileges at a rate of one-sixth (1/6) of the present four and one-half percent (4-1/2%) state rate in order to provide for a three-fourths percent (3/4%) tax rate except as that rate may be limited or reduced by statute.
- (2) If a majority of those voting in the election required by *Tennessee Code Annotated*, § 67-6-706, vote for the ordinance, collection of the tax levied by this section shall begin on the first day of the month occurring thirty (30) or more days after the county election commission makes its official canvass of the election returns.
- (3) It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidenced by local option sales and use tax rules and regulations heretofore promulgated by the Department of Revenue, the department shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The mayor is hereby authorized to contract with the department of revenue for the collection of tax by the department, and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of administration and collection of said tax.
- (4) In the event the tax is collected by the department of revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the mayor.
- (5) A certified copy of this section shall be transmitted to the said department of revenue by the city recorder forthwith and shall be published one (1) time in a newspaper of general circulation in the City of Fairview, Tennessee prior to the election called for in subsection (2) hereof. (1996 Code, § 5-301)

¹Ordinances and information on the passage of local sales and use taxes are of record in the office of the city recorder.

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. <u>To be collected</u>. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the Wholesale Beer Tax Act, as set out in *Tennessee Code Annotated*, title 57, chapter 6. (1996 Code, § 5-401)

¹State law reference

Tennessee Code Annotated, § 57-6-103, provides for a tax of seventeen percent (17%) on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

BUSINESS TAX

SECTION

- 5-501. Tax levied.
- 5-502. Recording fee.
- 5-503. Business license.
- **5-501.** <u>Tax levied</u>. The taxes provided for in Public Acts 1971, ch. 387, known as the Business Tax Act, being *Tennessee Code Annotated*, §§ 67-4-701, *et seq.*, as amended, are hereby enacted, ordained, and levied on the businesses, business activities, vocations, or occupations carried on in Fairview, Williamson County, Tennessee at the rates and in the manner prescribed by the said Act. (1996 Code, § 5-501, modified)
- **5-502.** Recording fee. A recording fee of fifteen dollars (\$15.00) shall be paid to the City of Fairview at the same time as the minimum tax is paid. (1996 Code, § 5-502, modified)
- **5-503.** Business license. It shall be unlawful for any person, corporation, firm, joint-stock company, syndicate, business or association to operate a business within the City of Fairview without a business license. The burden of going forward shall be upon the taxpayer in every case to establish the fact that the taxpayer is not engaged in the business of selling tangible personal property or offering services for profit or monetary gain, as defined in *Tennessee Code Annotated*, §§ 67-4-701, *et seq*.
- (1) If any court of compete jurisdiction shall find any portion of this section to be unconstitutional, that portion of the section shall be severed from the section and the remaining portion(s) shall be enforced.
- (2) In addition to any other action the city may take against a violator of this chapter, such violation shall be punishable by a penalty of fifty dollars (\$50.00) for each offense. Each day a violation occurs shall constitute a separate offense. (1996 Code, § 5-503, modified)

ADEQUATE FACILITIES TAX

SECTION

5-601. Definitions. 5-602. Exceptions.

- **5-601.** <u>**Definitions**</u>. As used in this chapter, unless a different meaning appears from the context:
- (1) "Building" means any structure built for the support, shelter, or enclosure of persons, chattles, or moveable property of any kind; the term includes a mobile home. This will not pertain to buildings used for agricultural purposes.
- (2) "Building permit" means a permit for development issued in the municipality.
- (3) "Capital improvement program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included.
- (4) "Certificate of occupancy" means a license for occupancy of a building or structure issued in the municipality.
- (5) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure of the addition to any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or non-residential use.
- (6) "Dwelling unit" means a room, or rooms, connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.
- (7) "Floor area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two feet (2') within the roof line of any building or portions thereof without walls, but excluding in the case of non-residential facilities: arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

- (8) "General plan" means the official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in *Tennessee Code Annotated*, §§ 13-3-301, 13-3-302, and 13-4-102. For purposes of this chapter only, a general plan may consist solely of the land development plan element which sets out a plan or scheme of future land usage.
- (9) "Governing body" means the City Commission of the City of Fairview, Tennessee.
- (10) "Major street or road plan" means the plan adopted by the planning commission, pursuant to *Tennessee Code Annotated*, §§ 13-3-402 and 13-4-302, showing, among other things, "the general location, character, and extent of public ways (and) the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways..."
 - (11) "Municipality" means the City of Fairview, Tennessee.
- (12) "Non-residential" means the development of any property for any use other than the residential use, except as may be exempted by this chapter.
- (13) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.
- (14) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, a "place of worship" does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are intended to be leased, rented, or used by persons who do not have tax-exempt status.
- (15) "Public buildings" means a building owned by the State of Tennessee or any agency thereof, a political subdivision of the State of Tennessee, including, but not necessarily limited to, counties, cities, school districts and special districts, or the federal government or any agency thereof.
- (16) "Public facility or facilities" means a physical improvement undertaken by the county or city, including, but not limited to, the following: road and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the municipality.
- (17) "Residential" means the development of any property for a dwelling unit or units. (1996 Code, § 5-601)

5-602. Exceptions. This chapter shall not apply to development of:

- (1) Public buildings; or
- (2) Places of worship. (1996 Code, § 5-605)

SALE OF CITY PROPERTY

SECTION

- 5-701. Generally.
- 5-702. Sealed bids.
- 5-703. Public auction.
- **5-701.** Generally. (1) Competitive bidding required—exception. All property including real property, or interest therein owned by the city, may be sold only after competitive bidding to the highest bidder, except as provided in § 5-701(4).
- (2) Notice of sale. Before a sale of any property including real property or interest therein is made by competitive bids, the board of commissioners shall provide for the publication of a notice of sale in the official newspaper of the city, or at least one (1) newspaper of public circulation within the city for a period of four (4) consecutive weeks. Within two (2) working days of the notice of sale being advertised in the afore referenced newspaper, the city manager shall cause a sign advertising the sale to be placed upon the property for sale in a conspicuous place on the property.
- (3) <u>Authority of the board of commissioners to provide by resolution for conduct of sales</u>. The board of commissioners may, from time to time, further provide by resolution for the conduct of sales but failure to comply with such provisions shall not affect the validity of any sale.
 - (4) <u>Sales not subject to this chapter</u>. (a) The following sales, conveyances and other dispositions of property, including real property, shall not be subject to the provisions of this chapter:
 - (i) An exchange of real properties or interest therein, which may include the receipt or payment of money as additional consideration incidental to such exchange when the board of commissioners determines by resolution that the exchange is in the best interest of the city;
 - (ii) A sale of real property or interest therein having a reasonable estimated market value (as estimated by the board of commissioners) of less than the cost to conduct a sale by sealed bids or auction as required by this chapter. Shall be disposed of as directed by the board of commissioners;
 - (iii) A quitclaim or other release of any real or apparent interest of the city made for the purpose of clearing title to real property owned by others; or
 - (iv) A sale of any property, including real property, or interest therein to the state, the county or to any city, school district, flood control, a redevelopment agency, the housing

- authority or any other special district within the county operated by or controlled by the state or county government.
- (b) A determination by the board of commissioners by resolution or in an ordinance authorizing execution of a conveyance that a transaction is of the nature described in any of the subdivisions of subsection (4)(a) of this section shall be conclusive for the purposes of this chapter.
- (5) Permits and rentals. (a) The board of commissioners may lease, on terms and conditions approved by the board of commissioners, any real property owned by the city, the use of which by the city has been temporarily deferred or suspended. All such leases or rental agreements shall be automatically terminated upon motion adopted by the board of commissioners that the use of the demised real property is immediately required by the city; and, provided further, that no such lease or rental agreement shall be for a term of longer than one (1) year.
- (b) The board of commissioners may grant permits to use the streets or public property, revocable at any time without notice, when such use serves the public interest or is of such a casual, temporary or occasional nature as not to unduly interfere with the public use thereof. In granting such permits for the use of public streets or places dedicated to the public and serving a public need, due regard shall be given for the extent of interference, the timing of such use so as to minimize interference with public use, and shall require when indicated appropriate insurance coverage protecting the city against liability that might or could arise out of such permitted use. When in the estimation of the board of commissioners such use would require more than ordinary services of the city, a fee to defray the city's expenses generated thereby may be charged as prerequisite to the granting of such permit.
- (6) <u>Payment of commission</u>. If pursuant to this chapter, a sale is consummated as the result of a bid which is subject to payment of a broker's or salesperson's commission by the city; the director of finance and administrative services shall cause the payment of such commission. (1996 Code, § 5-701)
- **5-702.** Sealed bids. (1) Sealed bids--terms and conditions generally. Whenever the sale of property, including real property, or an interest therein is required by this chapter or any other city ordinance to be subject to competitive bidding, the board of commissioners may determine that the competitive bidding shall be by sealed bids. The terms and conditions of a sale by sealed bids shall be as set forth in this chapter and in the notice of sale of such property or interest.
- (2) <u>Bidder's deposit required</u>. A deposit of ten percent (10%) of the amount bid shall be required by the notice of sale to qualify the bidder. Such deposit shall be in cash or by cashier's or certified check payable to the city and drawn or certified by a bank acceptable to the board of commissioners. Such

deposit shall be enclosed in the sealed envelope containing the bid. The deposit made by the successful bidder will be applied upon the purchase price, except as provided by § 5-702(3), and deposits made by others will be refunded after acceptance of the successful bid.

- (3) <u>Forfeiture of deposit</u>. Unless otherwise stated in the contract for sale, failure of the successful cash bidder to pay the balance of the purchase price, or failure by the successful bidder to pay the balance of the down payment, or failure by the successful bidder to close the transaction within ten (10) business days after notification that all documents are prepared and the city is prepared to close the sale, will result in forfeiture of the bidder's deposit; provided, however, that for good cause shown, the board of commissioners may extend such time limitation for closing.
- (4) <u>Notation on envelope containing bid</u>. The sealed envelope containing a bid shall bear the notation that it contains a bid and the sale number. Any bid submitted which does not have this notation will be returned to the bidder unopened.
- (5) Terms of sale. The sale shall be on the terms set forth in the notice of sale and as provided by this section. Except for the warranties contained in § 5-702(6), all property sold shall be sold as is where is with all faults, no warranty expressed or implied, and specifically no warranty of merchantability and fitness for a specific purpose shall be given. All appropriate documents noting the sale of property shall contain this disclaimer.
- (6) <u>Title policy—deed, title or bill of sale</u>. In the event of a cash sale for real property, upon receipt of full payment, the city will furnish, at its expense, a standard owner's policy of title insurance in the amount of the successful bid, showing title vested in the person designated by the successful bidder, subject to any general or special taxes unpaid, and to covenants, conditions, restrictions, reservations, rights, rights-of-way and easements, if any, and subject to the normal qualifications and exceptions. The city will not be responsible for recording fees or legal fees incurred by the bidder.

In the event of a cash sale for all property other than real property, upon receipt of full payment, the city will furnish, at its expense, a certificate of title with all liens having been paid and released or a bill of sale stating that the property sold has no outstanding liens attached to or encumbering the property sold. The city will not be responsible for recording fees or legal fees incurred by the bidder.

(7) <u>Sales upon request</u>. Requests for the purchase of city-owned property or interest therein shall be directed to the city manager by anyone willing to make a bid. The city manager shall fix an estimated market value and submit the request, together with his or her recommendation as to whether or not a sale shall be conducted, to the board of commissioners for further action. Whenever such property or interest shall be offered for sale by the city upon request, the person so requesting shall make a deposit of the amount estimated by the city manager of the cost of advertising before publication of the notice of

sale. Such deposit shall be returned to the depositor if the property or interest is not offered for sale or is sold; otherwise, it shall be forfeited to the city.

- (8) <u>Sale void if city unable to convey title</u>. If any property cannot legally be sold by the city, or if the city is unable to convey marketable title thereto within a reasonable time after the date of sale, the sale shall be void and deemed mutually canceled, and the purchase price or any part thereof deposited with the city shall be refunded and no liability will be assumed or incurred by the city.
- (9) <u>Submission of bid through licensed broker or salesperson</u>. If a bid is submitted by a licensed real estate broker or a licensed real estate salesperson, or any agent and is to be subject to the payment of a commission, the bid shall so state and the commission is to be paid by the person being represented by the licensed broker, salesperson or agent. In no instance will the city be responsible for the licensed broker, salesperson or agent's commission.
- (10) <u>Tie bids--highest net bid</u>. In the event two (2) or more equally high, valid bids are submitted, the board of commissioners shall determine the successful bidder by lot. In determining the highest bid or bids, the criterion shall be the highest net bid submitted, exclusive of any and all commissions.
- (11) <u>Rejection of bids</u>. The board of commissioners expressly reserves the right to reject any and all bids or to withdraw any property, including real property, or interest therein from sale at any time.
- (12) <u>Statements in notice of sale not warranty</u>. No statement in the notice of sale including, but not limited to, the location, size of parcel or zoning of any real property, model, year of manufacturer, etc. for other property offered for sale shall be considered a warranty. (1996 Code, § 5-702)
- 5-703. <u>Public auction</u>. (1) <u>By public auction when—terms and conditions generally</u>. Whenever the sale of property, including real property, or an interest therein is required by this chapter or any other city ordinance to be subject to competitive bidding, the board of commissioners may determine that the competitive bidding shall be by public auction. The terms and conditions of a sale by public auction shall be as set forth in this chapter and in the notice of sale of such property or interest.
- (2) <u>Bidder's deposit required</u>. A deposit of ten percent (10%) of the minimum price established by the board of commissioners shall be required by the notice of sale to qualify the bidder. Such deposit shall be in cash, a cashier's or certified check, or irrevocable letter of credit, payable to the city and drawn or certified by a bank acceptable to the board of commissioners, and shall be delivered to the auctioneer at the time of the sale or to the city manager prior to such time. The deposit made by the successful bidder will be applied upon the purchase price, except as provided in this chapter, and deposits made by all others will be refunded after acceptance of the successful bid.
- (3) <u>Forfeiture of deposit</u>. Unless otherwise stated in the contract for sale, failure of the successful cash bidder to pay the balance of the purchase

price, or failure by the successful bidder to pay the balance of the down payment, or failure of the successful bidder to close the transaction within ten (10) business days after notification that all documents are prepared and the city is prepared to close the sale, will result in forfeiture of the bidder's deposit; provided, however, that for good cause shown, the board of commissioner may extend such time limitation for closing.

- (4) Method of conducting. Any sale regulated by this chapter shall be held at such time and place as the board of commissioners may designate in the notice of sale and shall be conducted by a licensed auctioneer retained by the city for the purpose of conducting the sale. If any bid is submitted through an agent, the principal shall be liable for any commission. Under no circumstances will the city be liable for, nor will the city pay, agents commissions. The auction shall proceed in a professional manner under the terms herein designated. The property shall be sold to the highest bidder and the auctioneer shall declare the sale closed when the highest and best bid has been received.
- (5) Terms of sale. All sales shall be for cash, cashier's check, or certified check payable at the time delivery of the sold item(s) is taken by the successful bidder. Except for the warranties contained in § 5-703(6), all property sold shall be sold as is where is with all faults, no warranty expressed or implied, and specifically no warranty of merchantability and fitness for a specific purpose shall be given. All appropriate documents noting the sale of property shall contain this disclaimer.
- (6) <u>Title policy—deed, title or bill of sale</u>. In the event of a cash sale for real property, upon receipt of full payment, the city will furnish, at its expense, a standard owner's policy of title insurance in the amount of the successful bid, showing title vested in the person designated by the successful bidder, subject to any general or special taxes unpaid, and to covenants, conditions, restrictions, reservations, rights, rights-of-way and easements, if any, and subject to the normal qualifications and exceptions. The city will not be responsible for recording fees or legal fees incurred by the bidder.

In the event of a cash sale for all property other than real property, upon receipt of full payment, the city will furnish, at its expense, a certificate of title with all liens having been paid and released or a bill of sale stating that the property sold has no outstanding liens attached to or encumbering the property sold. The city will not be responsible for recording fees or legal fees incurred by the bidder.

(7) <u>Sales upon request</u>. Requests for the purchase of city-owned property or interest therein shall be directed to the city manager by anyone willing to make a bid. The city manager shall fix an estimated market value and submit the request, together with his or her recommendation as to whether or not a sale shall be conducted, to the board of commissioners for further action. Whenever such property or interest shall be offered for sale by the city upon request, the person so requesting shall make a deposit of the amount estimated by the city manager of the cost of advertising before publication of the notice of

the sale. Such deposit shall be returned to the depositor if the property or interest is not offered for sale or is sold; otherwise, it shall be forfeited to the city.

- (8) <u>Sale void if city unable to convey title</u>. If any property cannot legally be sold by the city, or if the city is unable to convey marketable title thereto within a reasonable time after the date of sale, the sale shall be void and deemed mutually canceled, and the purchase price or any part thereof deposited with the city shall be refunded and no liability will be assumed or incurred by the city.
- (9) <u>Rejection of bids</u>. The board of commissioners expressly reserves the right to reject any and all bids or to withdraw any property, including real property, or interest therein from sale at any time.
- (10) <u>Statements in notice of sale not warranty</u>. No statement in the notice of sale, including, but not limited to, the location, size of parcel or zoning of any real property offered for sale shall be considered a warranty. (1996 Code, § 5-703)

HOTEL/MOTEL TAX

SECTION

- 5-801. Definitions.
- 5-802. Privilege tax levied: use.
- 5-803. Payment of the tax.
- 5-804. Interest and penalty for late payment.
- 5-805. Compensation to the hotel.
- 5-806. Records required.

5-801. Definitions. As used in this chapter:

- (1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever.
- (2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (3) "Occupancy" means the use or possession, or the right to use or possession, of any rooms, lodgings or accommodations in any hotel.
- (4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (5) "Persons" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.
- (6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (1996 Code, § 5-801)
- **5-802.** Privilege tax levied: use. (1) Pursuant to the provisions of *Tennessee Code Annotated*, §§ 67-4-1401 to 67-4-1414, as amended by Public Acts of 2003, Chapter 370, Senate Bill 1665, substituted for House Bill 979, and passed on May 29, 2003, and signed by the governor on June 17, 2003, there is hereby levied a privilege of occupancy tax in any hotel of each transient, from and after the operative date of this chapter. The rate of the levy shall be eight percent (8%) per annum of the consideration charged by the operator, with one percent (1%) penalty per month. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The city manager

- shall be designated as the authorized collector to administer and enforce this chapter and these statutory provisions.
- (2) The proceeds received from this tax shall be deposited into and available to the city's general fund unless designated or directed otherwise by any subsequent City of Fairview municipal ordinance or resolution. (Ord. #2019-16, July 2019, modified)
- 5-803. Payment of the tax. The tax levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within the City of Fairview, Tennessee, to the City Manager of the City of Fairview, Tennessee. The payment of such tax to be remitted not later than the twentieth day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the City of Fairview, Tennessee, for the amount of tax for which credit was given shall be that of the operator. (1996 Code, § 5-803)
- **5-804.** Interest and penalty for late payment. (1) Taxes collected by an operator which are not remitted to the authorized collector on or before the due dates shall be delinquent.
- (2) The hotel operator shall be liable for interest on any delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition, for the penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. (1996 Code, § 5-804)
- 5-805. <u>Compensation to the hotel</u>. For the purpose of compensating the operator in accounting for and remitting the tax levied pursuant to this chapter, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the officer in the form of a deduction in submitting the operator's report and paying the amount due by such operator; provided, that the amount due was not delinquent at the time of payment. (1996 Code, § 5-805)
- **5-806.** Records required. The hotel operator must keep records for three (3) years, with the right of inspection by the city. (1996 Code, § 5-806)

FUND BALANCE POLICY

SECTION

- 5-901. Purpose.
- 5-902. Categories.
- 5-903. Responsibility.
- 5-904. Order and use of restricted and unrestricted funds.
- 5-905. Authority to commit funds.
- 5-906. Reserve funds.
- 5-907. Authority to assign funds.
- 5-908. Unassigned fund balance.
- **5-901.** Purpose. The fund balance policy is intended to provide guidelines during the preparation and execution of the annual budget to ensure that sufficient reserves are maintained for unanticipated expenditures or revenue shortfalls. It also is intended to preserve flexibility throughout the fiscal year to make adjustments in funding for programs approved in connection with the annual budget. The fund balance policy should be established based upon a long-term perspective recognizing that stated thresholds are considered minimum balances. The main objective of establishing and maintaining a fund balance policy is for the city to be in a strong fiscal position that will allow for better position to weather negative economic trends. (Ord. #2019-03, Feb. 2019)
- **5-902.** <u>Categories</u>. The fund balance consists of five (5) categories: non-spendable, restricted, committed, assigned, and unassigned.
- (1) The non-spendable fund balance consists of funds that cannot be spent due to their form (e.g., inventories and pre-paids) or funds that legally or contractually must be maintained intact.
- (2) The restricted fund balance consists of funds that are mandated for a specific purpose by external parties, constitutional provisions or enabling legislation.
- (3) The committed fund balance consists of funds that are set aside for a specific purpose by the city's board of commissioners. Formal action must be taken prior to the end of the fiscal year. The same formal action must be taken to remove or change the limitations placed on the fund balance.
- (4) The assigned fund balance consists of funds that are set aside with the intent to be used for a specific purpose by the city's board of commissioners, or by the administrative personnel who has been given the authority by the board of commissioners to assign funds. Assigned funds cannot cause a deficit in unassigned fund balance.
- (5) The unassigned fund balance consists of excess funds that have not been classified in the previous four (4) categories. All funds in this category are

considered spendable resources. This category also provides the resources necessary to meet unexpected expenditures and revenue shortfalls. (Ord. #2019-03, Feb. 2019)

- **5-903.** Responsibility. (1) (a) Non-spendable funds are those funds that cannot be spent because they are either:
 - (i) Not in spendable form (e.g. inventories and pre-paids); or
 - (ii) Legally or contractually required to be maintained intact.
- (b) It is the responsibility of the finance director to report all non-spendable funds appropriately in the city's financial statements.
- (2) (a) Restricted funds are those funds that have constraints placed on their use either:
 - (i) Externally by creditors, grantors, contributors, or laws or regulations of other governments; or
 - (ii) By law through constitutional provisions or enabling legislation.
- (b) It is the responsibility of the finance director to report all restricted funds appropriately in the city's financial statements. All restricted funds must also be reported to the city's governing body within two (2) months of the end of the fiscal year. (Ord. #2019-03, Feb. 2019)

5-904. Order and use of restricted and unrestricted funds.

- (1) When both restricted and unrestricted funds are available for expenditure, restricted funds should be spent first unless legal requirements disallow it.
- (2) When committed, assigned, and unassigned funds are available for expenditure, committed funds should be spent first, assigned funds second, and unassigned funds last. (Ord. #2019-03, Feb. 2019)
- **5-905.** Authority to commit funds. The city's governing body has the authority to set aside funds for a specific purpose. Any funds set aside as a committed fund balance requires the passage of a resolution by a simple majority vote. The passage of a resolution must take place prior to June 30 of the applicable fiscal year. If the actual amount of the commitment is not available by June 30, the resolution must state the process or formula necessary to calculate the actual amount as soon as information is available. (Ord. #2019-03, Feb. 2019)
- **5-906.** Reserve funds. Effective July 1, 2021, there shall be an amount equal to eleven percent (11%) of the city's general fund operating budget (excluding restricted use funds and accounts) held in reserve in a Local Government Investment Pool (LGIP) account. Beginning July 1, 2022, and

effective through July 1, 2030, the city's reserve shall increase by one percent (1%) of the city's general fund operating budget (excluding restricted use funds and accounts) such that beginning July 1, 2030, and effective every day thereafter; the city's reserve fund balance shall be equivalent to not less than twenty percent (20%) of the city's most recently adopted general fund operating budget. The reserve account and its fund balance shall not be included in any operating budget or be used generally to balance the operating budget. Any necessity to access any portion of the reserve fund for any purpose shall be reported to the board of commissioners no later than the next regularly scheduled meeting of the board of commissioners after the need to access reserve funds has been recognized. Any use of any portion or amount of the city's reserve funds shall be approved by resolution of the board of commissioners prior to the use of said funds. The resolution shall state the purpose or necessity to utilize the reserve funds, the amount to be utilized, and the plan to replenish and restore the reserve fund to its mandated percentage of the city's general fund operating budget. (Ord. #2019-03, Feb. 2019, as amended by Ord. #2020-10, May 2020)

5-907. <u>Authority to assign funds</u>. The city's governing body has the authority to set aside funds for the intended use of a specific purpose. Any funds set aside as assigned fund balance requires inclusion in the city's current year budget ordinance or as a resolution or amendment to the city's current year budget. (Ord. #2019-03, Feb. 2019)

5-908. <u>Unassigned fund balance</u>. The unassigned fund balance is the residual amount of fund balance in the general fund. It represents the resources available for future spending. An appropriate level of unassigned fund balance shall be maintained in the general fund in order to fund a balanced operating budget and to ensure all expenses and expenditures approved in the city's budget ordinance will be met. Any unassigned fund balance surplus projected for the end of the city's current fiscal year shall be reported by the city manager to the board of commissioners no later than sixty (60) days prior to the end of fiscal year. (Ord. #2019-03, Feb. 2019)

TITLE 6

LAW ENFORCEMENT

[RESERVED FOR FUTURE USE]

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

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

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include that area designated as the Central Business District at such time as the city may adopt a zoning ordinance. Until that time, there are no fire limits. (1996 Code, § 7-101)

Building, utility and residential codes: title 12.

¹Municipal code reference

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Modifications.
- 7-204. Definition of "municipality."
- 7-205. Storage of explosives, flammable liquids, etc.
- 7-206. Gasoline trucks.
- 7-207. Variances.
- 7-208. Fire department connection.
- 7-209. 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 regulating exits, egress capacity, stairways, fire escapes, travel distance to egress, and special locking arrangements in place of assembly occupancies, in any building or structure, the *International Fire Code*, ² 2018 edition, along with appendices B, C, D, F, H, I and all subsequent amendments or additions to said code as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as fully as if copied herein verbatim as a part of this code.
- One (1) copy of the fire code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #2019-21, Sept. 2019)
- **7-202.** Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (Ord. #2019-21, Sept. 2019)
- **7-203.** <u>Modifications</u>. (1) Within the fire code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the chief of the fire department or designated fire marshal shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned.

Building, utility and residential codes: title 12.

¹Municipal code references

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

- (2) Section 903, "Automatic Sprinkler Systems," of the *International Fire Code*, 2018 edition, is adopted in its entirety with the following modifications to the following sections:
 - (a) Section 903.2.1.1 Group A-1 (1) The fire area exceeds 5,000 square feet.
 - (b) Section 903.2.1.3 Group A-3 (1) The fire area exceeds 5,000 square feet.
 - (c) Section 903.2.1.4 Group A-4 (1) The fire area exceeds $5{,}000$ square feet.
 - (d) Section 903.2.3 Group E (1) Throughout all Group E fire areas greater than 5,000 square feet.
 - (e) Section 903.2.4 Group F (1) A Group F-1 fire area exceeds $5{,}000$ square feet.
 - (f) Section 903.2.7 Group M (1) A Group M fire area exceeds 5,000 square feet.
 - (g) Section 903.2.8 Group R A Group R an automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area except for one- and two-family dwellings.
 - (h) Section 903.2.9 Group S-1 (1) A group S-1 fire area exceeds 5,000 square feet.
 - (i) Section 903.2.9.1 Repair Garages.
 - (i) Buildings having two or more stories above grade plane, including basements, with a fire area containing a repair garage exceeding 5,000 square feet.
 - (ii) Buildings no more than one story above grade plane, with a fire area containing a repair garage exceeding 5,000 square feet.
 - (j) Section 903.2.10 Group S-2 enclosed parking garages.
 - (i) Where the fire area of the enclosed parking garage exceeds 5,000 square feet. (Ord. #2019-21, Sept. 2019)
- **7-204.** <u>Definition of "municipality"</u>. "Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Fairview, Tennessee. (Ord. #2019-21, Sept. 2019)
- **7-205.** Storage of explosives, flammable liquids, etc. (1) The limits referred to in the fire code, in which storage of explosive materials is prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.
- (2) The limits referred to in the fire code, in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.

- (3) The limits referred to in the fire code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.
- (4) The limits referred to in the fire code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire district as set out in § 7-101 of this code. (Ord. #2019-21, Sept. 2019)
- **7-206.** <u>Gasoline trucks</u>. 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. (Ord. #2019-21, Sept. 2019)
- **7-207.** <u>Variances</u>. The chief of the fire department may recommend to the board of commissioners 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 commissioners. (Ord. #2019-21, Sept. 2019)
- **7-208.** Fire department connection. Every new fire department connection for water-based fire protection systems shall be provided with a locking cap or caps approved by the fire marshal. On existing systems, the cap shall be installed within one (1) year of the adoption of this section. The owner of the building where such system is located shall be responsible for notifying the fire department when inspection, testing, or maintenance of any such fire protection equipment is performed. (Ord. #2019-35, Dec. 2019)
- **7-209.** <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the fire code, along with appendices B, C, D, F, H, and I as herein adopted. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #2019-21, Sept. 2019)

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.
- 7-308. Police powers of firefighters.
- 7-309. Authorization to act while off duty.
- 7-310. Inspections and inspection fees.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of commissioners. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief to be appointed by the city manager, and any other firefighters deemed to be necessary by the fire chief and the city manager. (1996 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;

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

Fire chief

Appointment: § 6-21-701.

Duties: § 6-21-702.

Emergency: § 6-21-703. Fire marshal: § 6-21-704.

Firefighters

Appointment: § 6-21-701.

Emergency powers: § 6-21-703.

Municipal code reference

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

¹Charter references

- (3) To confine fires to their places of origin;
- (4) To extinguish uncontrolled fires;
- (5) To prevent loss of life from asphyxiation or drowning; and
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1996 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. (1996 Code, § 7-303)
- **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 city manager once each month, and at the end of the year a detailed annual report shall be made. (1996 Code, § 7-304)
- **7-305.** <u>Tenure and compensation of members</u>. The chief shall hold office so long as his conduct and efficiency are satisfactory to the city manager. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation for their services as the board of commissioners may from time to time prescribe. (1996 Code, § 7-305)

- **7-306.** Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firefighters 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. (1996 Code, § 7-306)
- 7-307. Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of 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. (1996 Code, § 7-307)

- **7-308.** Police powers of firefighters. Firefighters at the scene of a fire shall have the same powers and authority as police officers for the purpose of directing traffic and otherwise preventing interference with the firefighting effort. (1996 Code, § 7-308)
- 7-309. <u>Authorization to act while off duty</u>. Fire department employees and volunteer firefighters are authorized to act to protect lives and property within the corporate limits of the City of Fairview, Tennessee, during those hours when such fire department employees and volunteer firefighters are off duty, and during those hours when such fire department employees and volunteer firefighters are in route or travel to and from official fire department business; and all actions by such off-duty fire department employees and volunteer firefighters shall be carried out in accordance with the laws, rules and regulations governing actions and conduct of fire department employees and volunteer firefighters. (1996 Code, § 7-309)
- 7-310. <u>Inspections and inspection fees</u>. The chief of the fire department, or a well-trained and qualified subordinate, approved by the chief, is authorized under this code to perform inspections of private residences for the purpose of determining whether flue installations for wood burning stoves are safely and properly installed to reduce the risk of fire from such installations. Provided that no such inspection is authorized unless the citizen requesting such an inspection shall sign a waiver acknowledging that the City of Fairview, and the inspector so designated, makes no warranty or guarantee, and further acknowledges his or her understanding that there is no assumption of liability upon the part of the said inspector, the chief of the fire department, or the City of Fairview, should a fire result from the installation so inspected. (1996 Code, § 7-310)

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Equipment to be used only in approved areas.

7-401. Equipment to be used only in approved areas. No equipment of the fire department shall be used for fighting any fire in an area not approved by the Fairview City Commission, which shall include all areas within the municipal boundaries in the city, all areas in the fifteenth district of Williamson County, any other areas included in a mutual aid agreement with any other municipality or county, and (within the discretion of the city manager, the fire chief or the mayor) any area impacted by a disaster. (1996 Code, § 7-401)

FIREWORKS

SECTION

- 7-501. Purpose.
- 7-502. Definitions.
- 7-503. Permits required.
- 7-504. Permit fee.
- 7-505. Privilege licenses required.
- 7-506. Permissible types of fireworks.
- 7-507. Conditions for use of permissible articles.
- 7-508. Retail sale of permissible articles—time limitations—exceptions.
- 7-509. Public displays-permits-regulation.
- 7-510. Regulations governing storing, locating or display of fireworks.
- 7-511. Unlawful acts in the sale, handling or private use of fireworks.
- 7-512. Exceptions to application.
- 7-513. Additional temporary fireworks requirements.
- 7-514. Violations and penalty.
- **7-501. Purpose**. The purpose of this chapter is to provide for the sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of Fairview, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (Ord. #2017-05, April 2017)
- **7-502. Definitions**. As used in this chapter, the following terms shall have the meaning described to them herein, unless clearly indicated otherwise:
- (1) "Distributor" means any person engaged in the business of making sales of fireworks to any other person or entity engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person or entity who receives, brings or imports any fireworks of any kind, in any manner into the City of Fairview, Tennessee, except to a holder of a distributor's or wholesaler's permit issued by the state fire marshal and the City of Fairview, Tennessee Fire Chief or assigns.
- (2) "Fireworks" means any and all articles of fireworks that are classified as novelty fireworks or "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles and further classified by the State of Tennessee as "fireworks" regulated by the State of Tennessee in *Tennessee Code Annotated*, §§ 68-104-101 to 68-104-116.
- (3) "Permit" means the written authority of the City of Fairview Fire Chief or his assigns, issued under the authority of this chapter. "Permits" will only be issued to seasonal retailers.

- (4) "Person" means any individual, firm, partnership or corporation.
- (5) "Sale" means the any exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person or entity, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individuals.
- (6) "Seasonal retailer" means any non-profit organization exempt from federal income taxation whose purpose is to promote the civic betterment engaged in the business of making sales of fireworks to consumers within the City of Fairview, Tennessee during the fireworks season(s) from temporary fireworks stands.
- (7) "Special fireworks" means all articles of fireworks that are classified as Class B explosives in the regulations of the United States Department of Transportation and includes all articles other than those as Class C or novelty fireworks. (Ord. #2017-05, April 2017, modified)
- 7-503. Permits required. (1) It shall be unlawful for any person, other than a person who is a member of a registered non-profit organization, identified in § 7-503(2) below, to sell, store, offer for sale, ship or cause to be shipped into the City of Fairview, except as herein provided any item of fireworks, without first having secured the required applicable permit as a distributor, wholesale or retailer, from both the City of Fairview Fire Chief and his/her assigns, and the state fire marshal (as required by *Tennessee Code Annotated*, §§ 68-104-101, et seq.); possession of said permits being hereby made a condition pre-requisite to selling, storing, or offering for sale, shipping or causing to be shipped, any fireworks into the City of Fairview except as herein provided. Permits issued under this section are not transferrable to third parties.
- (2) Proof of valid Internal Revenue Service section 501(c)(3) or 501(c)(19), being U.S.C. § 501, tax exempt status shall be required for any person and/or entity proposing to sell fireworks. The City of Fairview shall issue no permit for the sale of fireworks unless the applicant has first provided documentation that it is a registered non-profit organization with a certificate of incorporation and active federal employer identification number, can attest to a having a business mailing address within the City of Fairview, and has further provided documentation of proof of providing non-profit community services to City of Fairview citizens. Said non-profit organization must be listed as the owner on the State of Tennessee seasonal retail fireworks license.
- (3) Proof of insurance sufficient to properly insure liability coverage for the Internal Revenue Service section 501(c)(3) during the transport, storage, sale and disposal of fireworks intended to be transported into, stored in, sold in or otherwise disposed of within the corporate limits of the City of Fairview must be provided to the city at the time of permit application and said insurance is required to be in effect for the duration of any issued fireworks sales permit. (Ord. #2017-05, April 2017, as amended by Ord. #2021-11, May 2021, modified)

- **7-504.** Permit fee. The permit fee for the permit provided to non-profit organizations and only to non-profit organizations in § 7-503 is two hundred fifty dollars (\$250.00). (Ord. #2017-05, April 2017, modified)
- **7-505.** <u>Privileges license required</u>. The issuance of permits provided for herein shall not replace or relieve any person or entity of the responsibility to obtain state, county or municipal privilege licenses as now or hereafter provided by law. (Ord. #2017-05, April 2017)
- **7-506.** Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Fairview, Tennessee or ship into the City of Fairview, Tennessee, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:
- (1) Those items now or hereafter classified as D.O.T. Class C common fireworks and regulated by *Tennessee Code Annotated*, §§ 68-104-101 to 68-104-116; or
- (2) 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 (novelty fireworks). (Ord. #2017-05, April 2017, modified)
- **7-507.** Conditions for use of permissible articles. (1) No permissible articles of common fireworks, defined in § 7-502(2) shall be possessed or used within the corporate boundaries of the City of Fairview, Tennessee unless they are properly named to conform to the nomenclature of § 7-506 hereof or unless they are certified as "common fireworks" or certified as "unregulated or novelty fireworks" as defined in § 7-502(7).
- (2) Additionally: Those items now or hereafter classified as D.O.T. Class C (1.4G) common fireworks may be possessed and used by person(s) as defined in § 7-502(5) in accordance with the use of permissible articles as defined in this section.
 - (a) Such use by persons shall be restricted to the following dates and times and those dates and times only.
 - (i) July 3, 4 and 5 from noon to 11:00 P.M. inclusive;
 - (ii) December 31 from noon to January 1, 1:00 A.M. inclusive; and
 - (iii) January 1 and 2 from noon to 11:00 P.M. each day inclusive.
 - (b) All persons using fireworks as provided in this section shall:
 - (i) Not use or ignite or discharge fireworks on public roadways, streets, sidewalks, or any other public owned property, within six hundred feet (600') of any church, hospital, asylum,

public school, or park or within two hundred feet (200') of a gas station or throw any fireworks from a motor vehicle, into a motor vehicle at or near any person or group of persons.

- (ii) Persons using fireworks as provided in this section shall have attained the minimum age of sixteen (16) years unless they are accompanied by a person who has attained the minimum age of eighteen (18) years.
- (iii) All persons using or igniting fireworks as provided in this section shall make every reasonable effort to contain the fireworks and the debris on the users' property.
- (iv) If the person using or igniting the fireworks as provided in this section does not own the property upon which the person is using or igniting the fireworks, the owner's permission must be obtained for the fireworks using or igniting and the owner must be present during the entire time fireworks are being used or ignited.
- (v) Debris from the fireworks must be contained to the premises where the fireworks were used or ignited, collected and disposed of properly upon termination of the using or igniting of fireworks.
- (vi) Any provision contained in this section to the contrary notwithstanding the dates and times for use shall not apply to those items certified as "unregulated or novelty fireworks." (Ord. #2017-05, April 2017)

7-508. Retail sale of permissible articles-time limitations**exceptions**. Permissible articles of fireworks defined in § 7-502 may be sold at retail by seasonal retailers only at retail to residents of the City of Fairview, Tennessee and used within the City of Fairview, Tennessee from June 20 through July 5, and December 10 through January 2 of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used; provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less that twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type of serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or per chlorate salts may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches and cigarette loads, the sale and use of which shall be permitted at all times. (Ord. #2017-05, April 2017)

- 7-509. Public displays-permits-regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Fairview shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation of the United States Department of Transportation as Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the codes administrator, or their designees, and applied for and received a permit for such displays issued by the state fire marshal. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks display shall be confined to holders of a distributors permit only. Applicants must obtain and also provide liability insurance of at least one million dollars (\$1,000,000.00). (Ord. #2017-05, April 2017)
- 7-510. Regulations governing storing, locating or display of fireworks. (1) Only consumer fireworks (1.4G) may be sold. Illegal fireworks will be confiscated by the state fire marshal (*Tennessee Code Annotated*, §§ 68-104-108 and 68-104-115).
- (2) Fireworks must be stored at least ten feet (10') away from windows where the sun may shine through.
- (3) A "FIREWORKS NO SMOKING" sign with letters not less than four inches (4") high must be posted and visible. Smoking must not be permitted with ten feet (10') of fireworks (*Tennessee Code Annotated*, § 68-104-111).
- (4) The state license must be accurate for the site location and be posted in a conspicuous place (*Tennessee Code Annotated*, § 68-104-102(c)).
- (5) Extension cords and wiring, when used outdoors, must be listed for wet locations, and be protected against physical damage (2020 NFPA 70, 525-20(A)).
- (6) Ground fault interrupter protection must be used for power cords that supply power to tents and other outside locations (2008 NFPA 70, 525-23).
- (7) 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 (2008 NFPA 70, 525-21(B)).
- (8) Combustible materials must be kept at least thirty feet (30') from fireworks (2021 NFPA 1124, 7.4.6.1).

- (9) Heating devices must be listed and used in accordance with their listings. Temporary heating shall have overheat and tip-over protection devices (2006 NFPA 1124, 7.3.17.2).
- (10) Seasonal retailers must have at least one (1) portable fire extinguisher within thirty-five feet (35') of any point in the tent/building (2006 NFPA, 7.4.5.2).
- (11) At least one (1) fire extinguisher must be of the multipurpose dry chemical type if the facility has electrical power (2006 NFPA 1124, 7.3.8.2).
- (12) The facility and fireworks must be located at least fifty feet (50') from retail propane dispensing stations, aboveground storage tanks for flammable or combustible liquids or gas, and motor vehicle fuel dispensers. The facility and fireworks must be at least three hundred feet (300') from bulk flammable or combustible liquid or gas storage (2006 NFPA 1124, 7.3.12.2, and 7.3.12.6).
- (13) No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.
- (14) The physical site proposed for the location of storage, placement or sale of permissible fireworks shall require the prior approval of the codes administrator or the fire chief previous to the issuance of any required permits and licenses.
- (15) The bulk storage (storage other than limited amounts incidental to permitted seasonal retail sales or public displays) of fireworks within the corporate limits of the City of Fairview is prohibited, and a violation of this section is unlawful and punishable under the provision of this chapter or the applicable state code. (Ord. #2017-05, April 2017, modified)

7-511. <u>Unlawful acts in the sale, handling or private use of fireworks</u>. (1) It is unlawful to:

- (a) Offer for retail sale or to sell any fireworks to children under the age of eighteen (18) years or to any intoxicated or irresponsible person;
- (b) Explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school, gas station, or public park, or within two hundred feet (200') of where fireworks are stored, sold or offered for sale; or
- (c) Ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall an person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.
- (2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly

referred to as "illegal ground sales" designed to produce an audible effect, are expressly prohibited from shipment into, possession, sale or use within the City of Fairview for any purpose. This subsection (2) shall not effect display fireworks authorized by this chapter. (Ord. #2017-05, April 2017)

- 7-512. Exceptions to application. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshal, and after approval of the county agricultural agent for the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of Fairview. (Ord. #2017-05, April 2017)
- **7-513.** Additional temporary fireworks requirements. (1) No temporary fireworks stand shall be located within twenty feet (20') of any building.
- (2) No temporary fireworks stand shall be located within two hundred feet (200') of any gasoline pump, tank, dispenser, or vents for gasoline tanks. This shall not apply to portable generators or portable generator fuels needed for temporary power that may be stored at a distance not less than twenty feet (20') from the temporary fireworks stand to which power is being provided by such generator.
- (3) Vehicle parking shall be located a minimum of twenty feet (20') from any temporary fireworks stand.
- (4) All weeds and combustible material shall be cleared from the location of the temporary fireworks stand and all areas within twenty feet (20') of such stand.
- (5) Each temporary fireworks stand must have at least two (2) exits, at least thirty-six inches (36") in width, located at opposite ends of the stand. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied.
- (6) A temporary fireworks stand shall have at least two (2) portable fire extinguishers with a minimum 2A rating. Only one (1) portable fire extinguisher is required in temporary fireworks stands with a total area of less than two hundred (200) square feet.

- (7) Absolutely no customers are to be allowed inside of temporary fireworks stands.
- (8) The presence of lighted cigars, cigarettes, pipes, or any flame or glowing heat is not allowed within twenty feet (20') of a temporary fireworks stand.
- (9) Each temporary fireworks stand must have an adult over the age of eighteen (18) years in attendance and in charge during open business hours.
- (10) Temporary fireworks stands must comply with the temporary structure and use requirements of the *International Building Code* adopted by the city.
- (11) Temporary fireworks stands may be inspected by representatives of the city at any time prior to opening for business or during fireworks seasons.
- (12) All litter shall be removed from each temporary fireworks stand location at the termination of each fireworks season.
- (13) Each temporary fireworks stand shall be removed from the temporary location within ten (10) days after each fireworks season. Any temporary fireworks stand left at its temporary location after said ten (10) days will be charged one hundred dollars (\$100.00) per day for each day that the stand remains at the temporary location.
- (14) Signage for temporary fireworks stands must comply with the sign regulations applicable to the city per its existing sign zoning ordinance. (Ord. #2017-05, April 2017)
- 7-514. <u>Violations and penalty</u>. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not to exceed fifty dollars (\$50.00). Each day of operation in violation shall constitute a separate distinct punishable offense. In addition, the City of Fairview Fire Chief may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years. (Ord. #2017-05, April 2017)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

- 1. INTOXICATING LIQUORS.
- 2. BEER.
- 3. ON-PREMISES CONSUMPTION OF INTOXICATING LIQUORS.

CHAPTER 1

INTOXICATING LIQUORS²

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before board of commissioners; duty to give information.
- 8-105. Action on application.
- 8-106. Renewal of certificate.
- 8-107. Applicants for certificate who have criminal record.
- 8-108. Number of retail licenses to be held by retailer.
- 8-109. Where establishments may be located.
- 8-110. Retail stores to be on ground floor; entrances.
- 8-111. Limitation on number of retailers.
- 8-112. Sales for consumption on-premises.
- 8-113. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-114. Inspection fee.
- 8-115. Consumption of alcoholic beverages on-premises.
- 8-116. Privilege tax on the sale of alcoholic beverages for consumption on the premises.
- 8-117. Annual privilege tax to be paid to the recorder.

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

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Employee and server permits: *Tennessee Code Annotated*, §§ 57-3-701, *et seq*.

¹Municipal code reference

- 8-118. Concurrent sales of liquor by the drink and beer.
- 8-119. Advertisement of alcoholic beverages.
- 8-120. Violations and penalty.
- **8-101.** <u>Alcoholic beverages subject to regulation</u>. It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by *Tennessee Code Annotated*, title 57.
- **8-102. Application for certificate**. Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-208, shall be signed by the mayor, or by any commissioner, a request in writing shall be filed with the recorder, giving the following information:
 - (1) Name, age and address of the applicant.
 - (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.²
- (4) The location of the proposed store for the sale of alcoholic beverages.
 - (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (modified)

- **8-103.** Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the state for sale of alcoholic beverages.
- 8-104. Applicant to appear before board of commissioners; duty to give information. An applicant for a certificate of good moral character may

Tennessee Code Annotated, § 57-3-208.

Tennessee Code Annotated, § 57-3-208, requires the applicant to submit a criminal background report.

¹State law reference

²State law reference

be required to appear in person before the board of commissioners for such reasonable examination as may be desired by the board. (modified)

8-105. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police or their designee for investigation and to the city attorney for review, each of whom shall submit his findings to the board of commissioners within thirty (30) days of the date each application was filed.

The board of commissioners may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the board of commissioners. (modified)

- **8-106.** Renewal of certificate. A certificate issued under this chapter remains valid unless there is a change of ownership or location. If either of these events occur, a new certificate must be obtained.
- 8-107. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.
- 8-108. Number of retail licenses to be held by retailer. No retail licensee shall, directly or indirectly, hold more than two (2) retail licenses. In no event shall a retail licensee, directly or indirectly, hold more than fifty percent (50%) of the licenses authorized for issuance in such municipality or county. (modified)
- **8-109.** Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose. In no event will a certificate be issued to an applicant when the

¹State law reference

Tennessee Code Annotated, § 57-3-208.

²State law reference Tennessee Code Annotated, § 57-3-406.

location secured for the retail store is within three hundred feet (300') of any school, residence, church, or other place of public gathering.

- 8-110. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.¹
- **8-111.** <u>Limitation on number of retailers</u>.² No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter.
- **8-112.** Sales for consumption on-premises. No alcoholic beverages shall be sold for consumption on the premises of a retail seller.
- 8-113. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.
- **8-114.** <u>Inspection fee</u>. The City of Fairview hereby imposes an inspection fee in the maximum amount allowed by *Tennessee Code Annotated*, § 57-3-501, on all licensed retailers of alcoholic beverages located within the corporate limits of the city.
- 8-115. <u>Consumption of alcoholic beverages on-premises</u>. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Fairview, Tennessee. It is the intent of the City Council that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the City of Fairview, the same as if said code sections were copied herein verbatim.

¹State law reference

Tennessee Code Annotated, § 57-3-404(f)

²State law reference Tennessee Code Annotated, § 57-3-208(c).

- 8-116. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301) for the City of Fairview to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate or association engaging in the business of selling at retail in the City of Fairview of alcoholic beverages for consumption on the premises where sold.
- 8-117. Annual privilege tax to be paid to the recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Fairview shall remit annually to the recorder the appropriate tax described in § 8-115. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.
- 8-118. <u>Concurrent sales of liquor by the drink and beer</u>. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Fairview, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall, notwithstanding § 8-216 of the ordinances of the City of Fairview, qualify to receive a beer permit from the city upon compliance of all Fairview beer permit requirements.
- 8-119. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission.
- **8-120.** <u>Violations and penalty</u>. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

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. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Curbside sale of beer.
- 8-214. Revocation or suspension of beer permits.
- 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 five (5) members of the board of commissioners. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation.
- **8-202.** Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place.
- **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

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).

record shall be a public record and shall contain at least the following: The date of each meeting; names of the board members present and absent; 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.

- **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.
- **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.
- **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.
- **8-207.** Permit required for engaging in beer business.² (1) 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.
- (2) After the effective date of this section, each applicant for a beer permit must be at least twenty-one (21) years of age.
- (3) The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Fairview.
- (4) Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

Tennessee Code Annotated, § 57-5-106.

Tennessee Code Annotated, § 57-5-103.

¹State law reference

²State law reference

Licensed retail package stores located in the city are exempt from the provisions of this chapter and are not required to obtain a beer permit.¹

8-208. Privilege tax.² There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Fairview, 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.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premises and 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 in his permit.³

Tennessee Code Annotated, § 57-5-301(a), provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a), a local offense.

¹State law reference Tennessee Code Annotated, § 57-3-404(e)(2).

²State law reference Tennessee Code Annotated, § 57-5-104(b).

³State law reference

- 8-210. <u>Limitation on number of permits</u>. The number of licenses for the sale of beer shall not be limited. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (modified)
- 8-211. 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, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, 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, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:
- (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹
- (2) Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.²

Tennessee Code Annotated, § 1-3-113.

Tennessee Code Annotated, § 57-5-106(a), for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations § 0100-01-.03(2).

¹State law reference

²State law reference

- (3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.¹
- (4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
 - (5) Allow drunk persons to loiter about his premises.
- (6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.
- **8-213.** Curbside sale of beer. Pursuant to *Tennessee Code Annotated*, § 57-5-103, the authorization of beer permit holders to sell beer online for curbside pickup at the permit holder's location requires purchased beer to be delivered to the customer's vehicle and the vehicle to be located within a paved parking area adjacent to the place of business. Beer sold through an online curbside pickup service shall be required to be pulled from the inventory located at the permitted location of the retailer providing the service. Any employee bringing beer to a vehicle for online curbside pickup must confirm the individual receiving the beer is at least twenty-one (21) years of age.
- 8-214. 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

¹State law reference

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.

8-215. Civil penalty in lieu of revocation or suspension.

- (1) <u>Definition</u>. "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) <u>Penalty, revocation or suspension</u>. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

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

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

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. <u>Violations and penalty</u>. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon

¹State law reference

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

²State law reference

Tennessee Code Annotated, § 57-5-607.

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.

ON-PREMISES CONSUMPTION OF INTOXICATING LIQUORS

SECTION

- 8-301. Definition of alcoholic beverages.
- 8-302. Consumption of alcoholic beverages on premises.
- 8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-304. Annual privilege tax to be paid to the city recorder.
- **8-301. Definition of alcoholic beverages**. As used in this chapter, unless the context indicates otherwise, "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (1996 Code, § 8-301, modified)
- 8-302. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption, which are regulated by the said code when such sales are conducted within the corporate limits of Fairview, Tennessee. It is the intent of the board of commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Fairview, Tennessee, the same as if said code sections were copied herein verbatim. It shall be legal to sell and consume alcoholic beverages on premises in the City of Fairview, Tennessee, in accordance with the provisions of this chapter notwithstanding any provision of any previous ordinance(s) of the City of Fairview, Tennessee, to the contrary. (1996 Code, § 8-302)
- 8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Fairview, Tennessee, General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Fairview, Tennessee, alcoholic beverages for consumption on the premises where sold. (1996 Code, § 8-303)
- **8-304.** Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association

exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Fairview, Tennessee, shall remit annually to the city recorder the appropriate tax described in § 8-303. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (1996 Code, § 8-304, modified)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

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

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.1

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violations and penalty.
- **9-101. Definitions**. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:
- (1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the city who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.
- (2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

¹Municipal code reference

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

- (3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization. No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one (1) of the following conditions:
 - (a) Has a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.
 - (b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.
 - (c) Has been in continued existence as a charitable or religious organization in Williamson County for a period of two (2) years prior to the date of its application for registration under this chapter.
- (4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.
- (5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part

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

The definition of "transient vendors" is take from the *Tennessee Code Annotated*, § 62-30-101(3). Note also that *Tennessee Code Annotated*, § 67-4-710(a)(2), prescribes that transient vendors shall pay a tax of fifty dollars (\$50.00) in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709.

¹State law references

of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

- **9-102.** Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.
- **9-103.** Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor or solicitor, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.
- **9-104.** Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the recorder by each applicant for a permit as a peddler, transient vendor or solicitor, and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:
 - (a) The complete name and permanent address of the business or organization the applicant represents.
 - (b) A brief description of the type of business and the goods to be sold.
 - (c) The dates for which the applicant intends to do business or make solicitations.
 - (d) The names and permanent addresses of each person who will make sales or solicitations within the city.
 - (e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.
 - (f) Tennessee state sales tax number, if applicable.
- (2) <u>Permit fee</u>. Each applicant for a permit as a peddler, transient vendor or solicitor shall submit with his application a nonrefundable fee of fifty dollars (\$50.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.
- (3) <u>Permit issued</u>. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

- (4) <u>Submission of application form to chief of police</u>. Immediately after the applicant obtains a permit from the recorder, the recorder shall submit to the chief of police a copy of the application form and the permit. (modified)
- **9-105.** Restrictions on peddlers and solicitors. No peddler, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:
- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.
- (2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.
- (3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.
- (4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.
- (5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.
- **9-106.** Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.
- **9-107. Display of permit**. Each peddler, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.
- **9-108.** Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the recorder for any of the following causes:
 - (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
 - (b) Any violation of this chapter.
- (2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for

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

- 9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.
- **9-110.** <u>Violations and penalty</u>. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CABLE TELEVISION¹

SECTION

- 9-201. Authorization.
- 9-202. Purpose.
- 9-203. Definitions.
- 9-204. Application fee and acceptance: effective date.
- 9-205. Term of franchise.
- 9-206. Revocation of franchise and other penalties.
- 9-207. Transfer of cable television system.
- 9-208. Authority granted by the franchise.
- 9-209. Franchise fee.
- 9-210. Limitations of franchise.
- 9-211. Additional city rights in franchise.
- 9-212. Service area.
- 9-213. Condition of use of streets.
- 9-214. System design and channel capacity.
- 9-215. Interconnection.
- 9-216. Service to government buildings.
- 9-217. Service to single-family house or individual dwelling unit.
- 9-218. Parental control devices.
- 9-219. Construction standards.
- 9-220. Operational standards and performance monitoring.
- 9-221. Rates and charges.
- 9-222. Rights of individuals.
- 9-223. Liability and indemnification.
- 9-224. Insurance.
- 9-225. Franchise bond.
- 9-226. Filing and communications with regulatory agencies.
- 9-227. Reports.
- 9-228. Franchise renewal.
- 9-229. Franchise required.
- 9-230. Unauthorized connections or modifications.
- 9-231. Notice.
- 9-232. Captions.

9-201. <u>Authorization</u>. Pursuant to *Tennessee Code Annotated*, §§ 7-59-101, *et seq.*, the City of Fairview is duly authorized under the laws of the

¹See Ord. #412 (May 1997) and Ord. #655 (Feb. 2007) of record in the office of the recorder for an ordinance renewing the cable television franchise.

State of Tennessee to grant upon reasonable terms a franchise and to contract for the operation of a cable television system to furnish services to the city and its citizens. (1996 Code, § 9-501)

9-202. Purpose. The City of Fairview finds that the continued development of cable communication has the potential of having great benefit and impact upon the citizens of Fairview. Because of the complex and rapidly changing technology associated with cable communications, the city further finds that the public convenience, safety, and general welfare can best be served by establishing and maintaining regulatory powers which should be vested in the city or such city officials as the city shall designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to attain the best possible public interest and public purpose in these matters. Further, it is recognized that cable communications systems have the capacity to provide not only entertainment and information services to the city's residents, but can provide additional services.

For these purposes, the following goals underline the provisions contained herein:

- (1) Where economically reasonable, cable television services should be made available to all city residents; or
- (2) The system should be capable of accommodating both the present and the reasonably foreseeable future cable television needs of the citizens of the city. (1996 Code, § 9-502)
- **9-203.** <u>Definitions</u>. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the following meanings when used in this chapter:
- (1) "Cable act." The Cable Communications Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et seq.
- (2) "Cable television service." The provision of television reception, communications, and/or entertainment services for direct or indirect compensation, or as otherwise provided by this chapter, and distributing the same over a cable television system.
- (3) "Cable television system." A facility consisting of a set of closed transmission paths and associated signal generation and control equipment that is designed to provide cable television service to multiple subscribers within a community, not including a facility or combination of facilities that serves only to retransmit the television signals of one (1) or more television broadcast stations; or a facility or combination of facilities that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way or public utility easement.
- (4) "Channel." A portion of the electro-magnetic frequency spectrum (or any other means of transmission, including, but not limited to, optical fibers)

which is capable of carrying the equivalent of one (1) six (6) megaHertz television broadcast signal and includes uses of all or any portion of such band of frequencies.

- (5) "City commission." The City Commission of the City of Fairview, State of Tennessee.
- (6) "Commercial subscriber." All subscribers not defined as either residential or non-commercial.
 - (7) "County." The unincorporated area of Williamson County.
 - (8) "FCC." The Federal Communications Commission.
- (9) "Franchise." The nonexclusive rights granted pursuant to this chapter to construct, operate, and maintain a cable television system along the public rights-of-way within the city. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the city as required by other ordinances and laws of the city.
- (10) "Franchise agreement." A contract entered into between the city and the grantee pursuant to this chapter, containing additional provisions of the franchise granted.
- (11) "Grantee." The person, partnership, firm, or corporation to whom a franchise, as herein defined, is granted by the city commission under this chapter and the lawful successor, transferee, or assignee of said person, firm, or corporation.
- (12) "Gross revenues." All revenue derived directly by the grantee and its subsidiaries, from or in connection with the operation of the cable television system pursuant to this chapter and the franchise agreement, including, but not limited to, gross annual basic cable service receipts, gross annual premium channels receipts, pay-per-view programming receipts, all other service receipts, gross annual advertising receipts, gross annual receipts from use of commercial channels, installation and reconnection fees, and converter and other equipment rentals.
- (13) "Non-commercial." Any public, educational, or governmental institution.
- (14) "Person." Any individual, firm, partnership, association, corporation, or organization of any kind.
- (15) "Residential subscriber." A subscriber who receives cable television service in a single-family home or in an individual dwelling unit of a multiple dwelling, where the service is not to be utilized in connection with a business trade or profession.
- (16) "Service area." The geographical area within the unincorporated limits of the city as now exist or hereafter are expanded.
- (17) "Street(s)." The surface of and the space above and below any publicly-owned or maintained property or right-of-way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway, or drive, now or hereafter existing as such within the city.

- (18) "Subscriber." Any person or entity lawfully receiving any portion of the cable television service of a grantee pursuant to this chapter.
- (19) "Verifiable outage." That time during which transmission signal at subscriber's point of tie-in to the cable television system is of insufficient quality to provide a reasonably enjoyable audio and visual presentation; and the condition of which has been reported to the grantee in accordance with provisions herein; and the grantee has been given reasonable access to investigate/repair outage. (1996 Code, § 9-503)

9-204. Application fee and acceptance: effective date.

- (1) <u>Application fee</u>. (a) Applicants for a new franchise hereunder shall pay an application fee to the City of Fairview of two thousand five hundred dollars (\$2,500.00) which sum shall be due and payable to the city upon submission to the city of an application for a franchise or as soon thereafter as demanded by the city executive of the city. The application fee shall be nonrefundable.
- (b) Applications for renewal of a franchise shall not be accompanied by a filing fee. The franchise fee collected by city shall be used to cover the costs associated with a renewal application.
- (2) Acceptance: effective date. (a) Within thirty (30) days after final action granting a franchise, which shall be done by ordinance of the city commission, the grantee shall file with the city clerk a written acceptance acknowledged before a notary public of the conditions required for the franchise. Such acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this chapter, the franchise agreement (if any) and applicable law. The acceptance shall be in such form and content as to be satisfactory to and approved by the city attorney. If such acceptance is not filed within said time, then the franchise so awarded may be deemed void and of no further force and effect and the offer of franchise so awarded to grantee may stand revoked, at the option of the city.
- (b) Concurrently with the filing of the written acceptance, the grantee shall file with the city clerk the bond and insurance certificate required by this chapter.
- (c) The effective date of the franchise shall be the first day of the first month next following the date on which the grantee files the acceptance, bond and insurance certificate as required herein; provided, however, if any of the material required to be filed with the acceptance or the acceptance itself is defective or fails to meet with approval, the franchise shall not be effective until such defect is cured, or such approval is obtained. (1996 Code, § 9-504)
- **9-205.** <u>Term of franchise</u>. The duration of a new franchise granted pursuant to this chapter shall not be more than fifteen (15) years from the

effective date. For renewal franchises, a term of no more than ten (10) years may be granted, with the possibility of an extension of five (5) years without formal renewal proceedings in situations in which the performance of the grantee has been especially satisfactory, and as authorized by a two-thirds (2/3) vote of the city commission. (1996 Code, § 9-505)

- **9-206.** Revocation of franchise and other penalties. (1) Subject to the provisions of this section, the city reserves the right to revoke, at any time, any franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:
 - (a) Grantee has not substantially complied with a material provision of this chapter, the franchise agreement, or of any supplemental written agreement entered into by and between the city and the grantee;
 - (b) Grantee has made a material false statement in the application for the franchise, knowing it to be false, or grantee commits a fraud in its conduct or relations under the franchise with the city;
 - (c) Grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or assignment for benefit of creditors, or is unable to pay its debts as they mature, unless the grantee is in legal process of contesting such debts;
 - (d) Grantee fails to comply with any final federal or state judgement arising directly from the exercise of grantee's rights under its franchise;
 - (e) Grantee fails to provide or maintain in full force and effect the bond and insurance policies required by this chapter; or
 - (f) Grantee assigns, sells, or transfers its title control or interest in its franchise without the consent of the city commission.
- (2) In the event that the city shall make a preliminary decision to revoke a franchise granted hereunder, it shall give the grantee a minimum of sixty (60) days written notice of its intention to terminate and stipulate the cause. A public hearing shall be scheduled for the end of said sixty (60) day period. If during said period, the cause shall be cured to the satisfaction of the city, the city shall declare the notice to be null and void. If the cause is not cured to the satisfaction of the city, before a franchise may be terminated, the grantee must be provided with an opportunity to be heard before the city commission in the public hearing in accordance with due process procedures. After the public hearing, if the city determines that the franchise should be terminated, it shall issue a written decision containing its findings of fact and stating the specific grounds for termination. The decision to terminate a franchise shall be subject to judicial review as provided by writ of certiorari.
- (3) In the event the city determines that a franchise should not be renewed at its expiration or that a franchise should be revoked for cause as permitted hereunder, an independent expert shall be appointed to determine the fair market value of the grantee's system. The appointment of said expert shall

be based upon the recommendation of two (2) persons, one (1) of whom shall be selected by the city and one (1) of whom shall be selected by the grantee; provided, however, that if the two (2) persons selected are unable to reach an agreement as to their recommendation within sixty (60) days of the written decision of termination, then the matter of appointing an expert shall be submitted to the American Arbitration Association (unless the city and the grantee mutually agree upon some other arbitrator(s)), and the expert designated by the American Arbitration Association or such other arbitrators shall be appointed, the cost of which shall be borne equally by the grantee and the city. The findings of such expert shall be binding on both parties. Upon determination of the fair market value of the grantee's system as provided herein, the grantee shall be required to sell its system to any entity, including the city, which offers said fair market value and which has obtained the approval of the city commission to purchase said system. (1996 Code, § 9-506)

- 9-207. Transfer of cable television system. (1) No transfer of control of the cable television system other than a pro forma transfer to a parent or a wholly owned subsidiary corporation, or to a partnership with the same general partner as grantee, or hypothecation as the result of a commercial loan shall take place, whether by force or voluntary sale, lease, assignment, foreclosure, attachment, merger, or any other form of disposition, without prior notice to and approval by the city commission, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the city may inquire into the qualifications of the prospective controlling party, and the grantee shall assist the city in any such inquiry. The city shall have ninety (90) days within which to approve or disapprove, by ordinance, the proposed transfer of control. If the city fails to act within said ninety (90) day period, the application to transfer control or assign the franchise shall be deemed to be granted.
- (2) Approval of such transfer shall be expressly conditioned upon full compliance with the material terms of the franchise and this chapter. The transferee shall agree in writing to comply with all provisions of this chapter and the franchise agreement.
- (3) For the purpose of this section, the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of affiliated persons of twenty-five percent (25%) of the voting shares of the grantee. (1996 Code, § 9-507)
- **9-208.** Authority granted by the franchise. (1) The grantee of any franchise granted pursuant to the provisions of this chapter shall subject to the conditions and restrictions set out in this chapter, be authorized to construct or

have constructed, operate, and maintain a cable television system, and to engage in the business of providing cable television service in the city as defined herein and in the franchise and for that purpose to erect, install, construct, repair, replace, reconstruct, and maintain such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the cable television system; provided, however, that before any pole, wire, or other thing mentioned above which is necessary and appurtenant to the cable television system is placed on or within any street or associated right-of-way, the required permits to do so must be obtained by the grantee from the city; and, provided further, that before any such construction is commenced, the plans and specifications thereof must be approved in writing by the City Manager of the City of Fairview. It shall be unlawful for any telephone, telegraph, or power company or any other public utility company or person to lease or otherwise make available to any person any poles, lines, facilities, equipment, or other property for use in connection with the operation of a cable television system or the provision of cable television service, unless such other person holds a valid franchise granted pursuant to the provisions of this chapter.

- (2) The authority granted to a grantee pursuant to the provisions of this chapter is not and shall not be deemed to be an exclusive right or permission. The city expressly reserves the right to grant one (1) or more non-exclusive franchises to operate a cable television system to other persons for the entire franchise area at any time under the same substantive terms and conditions as apply to the existing grantee. No such additional franchise granted by the city shall in any way affect the obligations of any other grantee.
- (3) If the city grants an additional franchise under this chapter which contains terms deemed more favorable by any existing grantee, said existing grantee may elect to incorporate said terms or provisions into its existing franchise upon notice to the city.
- (4) Grantee shall inform all subscribers annually that a copy of the ordinance governing city cable franchises is available from the city manager upon request. (1996 Code, § 9-508)
- **9-209.** Franchise fee. (1) Because the city finds that the administration of a franchise granted pursuant to this chapter imposes upon the city additional regulatory responsibility and expense, a grantee of any franchise hereunder shall pay to the city a sum equal to five percent (5%) of its gross revenues. Said fee shall be paid quarterly not later than thirty (30) days after the last day of each quarter. This fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state, or local law. This fee shall be deemed to reimburse the city for all costs of regulating the cable television system of the grantee and shall cover the expense of all regulatory requirements including, but not limited to, any performance testing

required by the city under the terms of this chapter and any renewal or transfer procedures arising hereunder.

- (2) Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable under this chapter or for the performance of any other obligations hereunder. (1996 Code, § 9-509)
- 9-210. <u>Limitations of franchise</u>. (1) In addition to the limitations otherwise herein appearing, the franchise is subject to the limitation that the grantee shall at all times during the life of any franchise hereunder be subject to the lawful exercise of its police power by the city and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the city has adopted or shall adopt applying to the public generally and shall be subject to all laws of the State of Tennessee and the United States.
- (2) Time shall be of the essence in any franchise granted hereunder. The grantee shall not be relieved of its obligations to comply promptly with a provision of this chapter by the failure of the city to enforce compliance. Failure of the city to enforce any breach by the grantee shall not constitute a waiver by the city.
- (3) Any poles, cable, electronic equipment or other appurtenances of the grantee to be installed in, under, over, along, across or upon a street or associated right-of-way shall be located so as to contribute in no way to unsafe traffic conditions, and cause minimum interference with the public use of the streets, to cause minimum interference with the rights of other users of the streets or of property owners who adjoin any of the streets.
- (4) Grantee shall maintain surety and obtain construction permits in accordance with the City of Fairview's rules and regulations. In the event of disturbance of any other public property, or private property by grantee, it shall, at its own expense, and using reasonable efforts, replace and restore property to the condition existing before the work was done.
- (5) Grantee shall contract, maintain and operate the cable television system so as to cause minimum inconvenience to, and greatest concern for, the safety of the general public. All excavations shall be properly guarded and protected. All excavations shall be filled and the surface restored promptly after completion of the work at grantee's sole cost and expense. The grantee shall at all times comply with all excavation ordinances of the city. Any site(s) used for the storage of maintenance or construction equipment shall be properly zoned for such use, and shall have received specific site plan approval from the Fairview City Manager.
- (6) The grantee shall, upon reasonable notice from any person holding a building moving permit issued by the city, temporarily alter its facilities to permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and the grantee shall have the right to request payment in advance. For the provisions of this chapter, "reasonable

notice" shall be construed to mean at least seventy-two (72) hours prior to the move, after which, grantee having failed to make required alteration(s), person requesting alteration(s) may assume right to accomplish temporary alteration(s).

- (7) If, at any time, in case of fire or disaster in the city, it shall become necessary in the judgement of the City Manager of the City of Fairview or his designee to cut or move any of the wires, cable amplifiers, appliances, or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee at no expense to the city. (1996 Code, § 9-510)
- 9-211. Additional city rights in franchise. (1) The city reserves the right upon reasonable notice to require the grantee at his expense to protect, support, temporarily disconnect, relocate or remove from the streets any property of the grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies. Reasonable notice for this provision of the regulations shall be construed to mean at least thirty (30) days, except in the case of emergencies where no specific notice period shall be required.
- (2) In the event of the failure by the grantee to complete any work required by subsection (1) above or any work required by city law or regulation within the time established, the city may cause such work to be done; and the grantee shall reimburse the city the reasonable costs thereof within thirty (30) days after receipt of an itemized list of such cost.
- (3) The grantee shall provide at no cost and, within one hundred eighty (180) days of granting franchise, make available to the City Manager of the City of Fairview, or his designee:
 - (a) Audio and video override capability on all activated channels; and
 - (b) Emergency broadcast capability on the community channel from the city emergency operations center for emergency use during an emergency or disaster period or threat thereof and for periodic tests.
- (4) The grantee shall reserve one (1) channel for Public, Educational and Governmental (PEG) access use initially, and two (2) channels for PEG use once the capacity has been increased to at least fifty-four (54) channels in accordance with § 9-214 herein. With prior approval of the city, such channel(s) may be used by the grantee for other purposes when not required by PEG users. The city or its designee shall assume responsibility for regulation and/or scheduling the use of PEG channels by any and all PEG users.
- (5) The city reserves the right during the life of any franchise hereunder to inspect, or cause to have inspected by its designee(s) (including auditor(s)), upon reasonable notice, at reasonable hours, the grantee's contracts

and engineering records dealing with gross revenue and technical service provided by grantee; provided that information pertaining to service to individual subscribers will be available pursuant to section 631 of the Cable Act, being 47 U.S.C. § 551.

- (6) The city reserves the right during the life of any franchise granted hereunder to install and maintain free of charge upon the poles or in the conduits of a grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operations of the grantee.
- (7) The city reserves the right during the life of any franchise granted hereunder, to reasonably inspect all construction or installation work performed subject to the provisions of the chapter to ensure compliance with the terms of this chapter. At its own expense, the city may also perform measurements upon and randomly inspect any portion of a grantee's system to ensure compliance with the technical standards under which the grantee is authorized to operate; provided that such measurement or inspection does not interfere with the operation of the cable television system.
- (8) At any time during the term of the franchise, and upon thirty (30) days' notice, the city reserves the right to hold a public hearing for the expressed purpose of reviewing the general and specific performance of the grantee with regard to all franchise provisions contained herein or in any franchise agreement issued hereunder.
- (9) Any right or power in or duty impressed upon any officer, employee, department, or board of the city shall be subject to transfer by the City Manager of the City of Fairview by law to any other officer, employee, department, or board of the city. The city reserves all rights not specifically granted herein, and the enumerations of the rights herein shall not be construed to be a limitation of any right or power the city may otherwise have.
- (10) The city reserves all rights as it may have now or in the future pursuant to the Cable Act and rules and regulations of the Federal Communications Commission with regard to the regulation of rates and charges. (1996 Code, § 9-511, modified)
- **9-212.** Service area. (1) The grantee of any franchise hereunder shall, within three (3) years following the effective date of this chapter, offer cable television service to all potential residential subscribers within the city, subject to the provisions of subsection (2) of this section.
- (2) The grantee of any franchise hereunder shall offer cable television service to all potential residential subscribers located within one hundred fifty feet (150') of grantee's feeder cable; and where there exists a minimum density

¹These provisions were taken from Ord. #363 which passed third reading July 21, 1994.

- of thirty-five (35) dwelling units per mile or fractional equivalent thereof and the first dwelling unit included in this density is within three hundred feet (300') of grantee's feeder cable. The grantee may elect, but has no obligation, to offer cable television service to areas not meeting the above standard.
- (3) Unless otherwise authorized by the city commission, all potential residential subscribers whose dwelling units meet the requirements herein as of the effective date of a franchise granted pursuant to this chapter shall have cable television service available to their dwelling units within twelve (12) months of such effective date. Potential residential subscribers subsequently meeting the requirements of this section, including potential subscribers occupying homes built after the effective date of a franchise, shall have cable television service available to their dwelling units within one hundred twenty (120) days of the time said requirements have been met, except that, upon written request, the city manager may extend such time period by an additional sixty (60) days in the event the grantee encounters difficulties related to weather, availability of equipment or other problems beyond its control. Such extension of time by the city manager shall not be unreasonably denied.
- (4) In the event the continued use of a street is denied for any reasonable reason related to public health, safety or welfare, the grantee will make every reasonable effort to provide residential service over alternate routes. (1996 Code, § 9-512)
- 9-213. Condition of use of streets. (1) The poles used for a distribution system shall be, to the extent possible, those erected and maintained by a power company. Notwithstanding any other provisions of this chapter, no poles except replacements for existing poles shall be erected by or for the grantee in any street, except when necessary to service a subscriber. Any poles, wires, cable or other facilities to be constructed or installed by grantee on or within the streets shall be constructed or installed only at such locations and depths and in such a manner as to comply with all state statutes and rules and regulations of the State of Tennessee, the county, and any other agency of competent jurisdiction. See § 9-210(4).
- (2) The installation of trunk and distribution lines, including service drops to subscribers, shall be made underground in areas where both telephone and power lines are underground or are placed underground and the service poles are removed. (1996 Code, § 9-513)
- **9-214.** System design and channel capacity. The cable television system shall be constructed and operated in a manner as set forth in this chapter. Within three (3) years after the effective date of a franchise agreement, the cable television system shall have a capacity which permits at least fifty-four (54) channels. (1996 Code, § 9-514)

- **9-215. Interconnection**. Where economically reasonable and technically possible, grantee may connect its system with other cable systems adjoining it so as to provide the widest possible combination of programming in the most efficient manner. (1996 Code, § 9-515)
- **9-216.** Service to government buildings. The grantee shall, upon request therefor, provide and furnish, without charge, to all public educational institutions and governmental buildings within the service area and within one hundred fifty feet (150') of grantee's existing distribution cable, one (1) service outlet. The institutions shall be entitled to receive, free of charge, the grantee's basic cable television service. (1996 Code, § 9-516)
- 9-217. Service to single-family house or individual dwelling unit. Wiring internal to a residence shall not be installed by a grantee without the specific permission of the owner, nor shall the provision of service be conditional upon such wiring unless additional internal wiring is needed to meet the specific service needs of the subscriber. When additional internal wiring is needed, the subscriber shall be allowed the option of having such wiring provided by the technician of his choice; provided that such wiring shall meet minimum standards as established by applicable statutes, codes and regulations. Where internal wiring is to be installed by the grantee, it shall notify the subscriber in advance of the estimated charges for the services to be provided, as well as any ongoing charges related to such wiring or to the use of multiple outlets connected to such wiring. (1996 Code, § 9-517)
- **9-218.** Parental control devices. The grantee shall at all times have available parental control devices for the purpose of controlling premium television programming on individual subscriber television sets. The grantee shall have the right to charge reasonable fees. (1996 Code, § 9-518)
- **9-219.** Construction standards. (1) Grantee shall construct, install, operate, and maintain the cable television system in a manner consistent with all laws, chapters, construction standards, governmental requirements, and the construction and operational standards contained in this chapter and any franchise agreement.
- (2) All installation and maintenance of electronic equipment shall be of a permanent nature, durable, and installed in accordance with the applicable sections of the *National Electric Safety Code*, the *National Electrical Code of the National Bureau of Fire Underwriters*, and all state and local codes where applicable.
- (3) Antenna supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable local or state

codes and regulations, and shall receive specific site plan approval from the city's manager and the board of zoning appeals.

- (4) All construction methods and standards shall conform to standard industry practices at the time of construction, and as specified herein and in any franchise agreement.
- (5) Any contractor used by a grantee for construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under the laws of the state to which the contractor is licensed, and all local chapters.
- (6) The city does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the locations shall be verified by excavation. (1996 Code, § 9-519)

9-220. Operational standards and performance monitoring.

- (1) The cable television system shall be operated in compliance with the service standards established by the National Cable Television Association (NCTA) as adopted by the NCTA Board of Directors on February 14, 1990, and as may be subsequently amended.
- (2) The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire franchise term.
- (3) The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.
 - (a) Service repair response time to a subscriber outage call shall not exceed forty-eight (48) hours except in circumstances beyond the reasonable control of the grantee.
 - (b) Trained technicians shall respond on a seven (7) days a week basis, during normal viewing hours (defined as 8:00 A.M. until 11:00 P.M.), whenever five (5) or more verifiable subscriber complaints of outage are received.
 - (c) The grantee shall have a local, publicly listed telephone number. The grantee shall provide the means to accept complaint calls twenty-four (24) hours a day, seven (7) days a week.
 - (d) In the event of a verifiable outage in which all service is demonstrably lost to a customer or group of customers for a period of time greater than four (4) hours, credit will be granted to such affected customer or customers upon request by such affected customer or customers according to the following schedule:
 - (i) Outage lasting more than four (4) hours, but less than twelve (12) hours: one-half (1/2) day's credit.
 - (ii) Outage lasting more than twelve (12) hours, but less than twenty-four (24) hours: one (1) day's credit.

- (iii) Outage lasting more than twenty-four (24) hours, but less than thirty-six (36) hours: one and one-half (1-1/2) day's credit.
- (iv) Outage lasts more than thirty-six (36) hours, but less than forty-eight (48) hours: two (2) days' credit.
- (v) Outage lasts more than forty-eight (48) hours: two (2) days' credit for the first forty-eight (48) hours, one (1) day's credit for each additional day or fraction thereof.

All customers within the city shall receive conspicuous written notice of this policy from the grantee no less than once a year.

- (e) If unspecified otherwise herein, NCTA standards for telephone answering time shall apply, regardless of number of subscribers.
- (4) The grantee shall maintain a business office for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunction and similar matters and for bill payment and other customer transactions. Said business office shall be located within the city, unless otherwise permitted by the franchise agreement. The grantee shall provide the city manager with the name, address and phone number of the local manager or other agent responsible for receiving complaints.
- (5) Subject to the privacy provisions of section 631 of the Cable Act, being 47 U.S.C. §§ 521, et seq., the grantee shall keep a maintenance service log indicating the nature of each service complaint, the date and time it was received, the disposition of the complaint, and the date and time of the disposition. The log shall be made available for periodic inspection by the city manager or his designee.
- (6) Whenever it appears that the grantee is not complying with the service standards as established herein or in the franchise agreement, the city commission may at any time order the grantee to appear before it for a show cause hearing. At said hearing, the grantee may be questioned by and/or on behalf of the city commission. The grantee may present evidence to show that it is in fact in compliance with service standards or that its non-compliance is for reasons beyond its control. If the city commission, by majority vote, determines that the grantee has not complied with the service standards established herein or in the franchise agreement, and that such non-compliance is without adequate justification, it may enforce such penalties or initiate such remedial procedures as may be provided for herein or in the franchise agreement and/or it may direct that the grantee be cited for violation of this chapter and subjected to punishment. (1996 Code, § 9-520, modified)
- 9-221. <u>Rates and charges</u>. Grantee shall file with the city schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto, sixty (60) days prior to the desired effective date of such rates and charges. Grantee shall have the right to pass through to its subscribers all taxes and fees related to the provision of cable

television service, and may designate that portion of a subscriber's bill attributable to the franchise fee as a separate item on the bill. (1996 Code, § 9-521)

- **9-222.** Rights of individuals. (1) The grantee shall not deny service, deny access, deny employment, or otherwise discriminate against subscribers or other users, or any citizen on the basis of race, color, religion, national origin, sex or sexual orientation. The grantee shall comply at all times with all other applicable federal, state, and local laws and regulations, and all executive and administrative orders relating to nondiscrimination.
- (2) Grantee shall comply with individual privacy provisions contained in the Cable Act, being 47 U.S.C. §§ 521, et seq. (1996 Code, § 9-522, modified)
- **9-223.** Liability and indemnification. (1) The grantee shall, at its sole cost and expense, fully indemnify, defend, and save harmless the county, its officers, councils, commissions, and employees against any and all actions, liability, judgments, executions, claims or demands whatsoever by others, including, but not limited to, copyright infringement and all other damages arising out of the installation or operation or maintenance of the cable television system authorized herein, whether or not any act of omission complained of is authorized, allowed, or prohibited by this chapter and any franchise granted hereunder. Grantee shall further indemnify and save the city harmless against all liabilities to others arising out of such construction, operation and maintenance, including, but not limited to, any liability for damages by reason of, or arising out of any failure by, grantee to secure licenses from the owners, authorized distributors or licensees of programs to be transmitted or distributed by the grantee, and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees, arising out of the grantee's exercise or enjoyment of this franchise, irrespective of the amount of any comprehensive liability policy required hereunder.
- (2) The foregoing liability and indemnity obligations of the grantee pursuant to this section shall not apply to damages occasioned by acts of the city, its agents, or employees, nor shall it be deemed a waiver of any defense of contributory negligence which the grantee may assert against the city, its agents, or employees. (1996 Code, § 9-523)
- **9-224.** <u>Insurance</u>. (1) At the time of filing written acceptance of the franchise, the grantee shall file with the City of Fairview either a copy of the policy declaration; or an insurance binder for the following:
 - (a) A Comprehensive General Liability (CGL) contract indemnifying, defending, and holding harmless the city, its officers, councils, commissions, agents, or employees from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the grantee under the franchise

granted hereunder with a minimum of liability of one million dollars (\$1,000,000.00) for personal injury or death of any one (1) or more person(s) in any one (1) occurrence. Renewal certificates of such insurance shall be promptly forwarded to City of Fairview, P.O. Box 69, Fairview, Tennessee 37062, as such renewals are made, and such insurance shall be constantly kept in force and effect during the term of this franchise.

- (b) Property damage insurance indemnifying, defending and holding harmless the city, its officers, councils, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of a grantee under the franchise granted hereunder with a minimum liability of one million dollars (\$1,000,000.00) for property damage to any one (1) or more person(s) in any one (1) occurrence.
- (2) Such insurance as provided for in this section shall be provided at the grantee's sole cost and expense and be kept in full force and effect by the grantee during the existence of the franchise and until the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incidental to the maintenance and operation of the cable television system as defined in the franchise.
- (3) All the foregoing insurance contracts shall be issued and maintained by companies admitted or approved to do business in the State of Tennessee and shall carry an A.M. Best rating of A or above, and shall require thirty (30) days' written notice of any cancellation or reduction in coverage to both Fairview City and the grantee herein. (1996 Code, § 9-524)
- **9-225.** Franchise bond. (1) The amount of the franchise bond required by the cable television franchise ordinance to be maintained in full force and effect throughout the term of the franchise shall be no less than twenty-five thousand dollars (\$25,000.00). The franchise bond shall be issued by a company authorized to do business in the State of Tennessee and which is rated A or better by the A.M. Best Company; or which meets all alternative criteria as may be established by the city for the acceptance of bonds.
- (2) The rights to the city with respect to the bond are in addition to all other rights of the city, whether reserved by this chapter or authorized by law; and no action, proceeding or exercise of right with respect to such bond shall affect any other right the city may have. (1996 Code, § 9-525)
- 9-226. Filing and communications with regulatory agencies. The grantee shall maintain copies of all petitions, applications, and communications, relative to any franchise granted pursuant to this chapter transmitted by the grantee to, or received by the grantee from, all federal and state regulatory commissions or agencies having competent jurisdiction to regulate the operations of any cable television system authorized hereunder. Said copies

shall be available for inspection by the city during regular business hours of the grantee. (1996 Code, § 9-526)

- **9-227.** Reports. (1) The grantee shall file annually with the city manager, not later than four (4) months after the end of its fiscal year during which it accepted a franchise hereunder and within four (4) months after the end of each subsequent fiscal year, a letter containing the amount of the gross revenues for the previous fiscal year certified by grantee's controller or chief financial officer.
- (2) The grantee shall file annually with the city manager or his designee copies of all reports submitted to the FCC and any other regulating body for the preceding fiscal year, along with any related correspondence. The grantee shall simultaneously file with the city executive annual reports on the status of current capital projects and plans for future capital projects affecting the grantee's cable system within the city.
- (3) The grantee shall at all times keep on file with the city manager or his designee a current list of its partners and stockholders with an interest of ten percent (10%) or greater, its officers and directors and bond holders.
- (4) The grantee shall maintain on file with the city manager or his designee a current, true and accurate map or plat of all existing and proposed installations. (1996 Code, § 9-527)
- **9-228.** Franchise renewal. Upon completion of the term of any franchise granted pursuant to this chapter, the procedures for franchise renewals as established by the Cable Act, being 47 U.S.C. § 546, will apply. (1996 Code, § 9-528, modified)
- 9-229. Franchise required. It shall be unlawful for any person to construct, operate, or maintain a cable television system in the city unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise granted pursuant to this chapter. It shall also be unlawful for any person to provide cable television service in the city unless such person shall have first obtained and shall currently hold a valid franchise granted pursuant to the provisions of this chapter. All franchises granted by the city pursuant to this chapter shall contain the same substantive terms and conditions. Any violation under this section shall be a Class C misdemeanor, and every day in which a violation occurs, or is allowed to continue, shall be a separate violation. (1996 Code, § 9-529)
- 9-230. <u>Unauthorized connections or modifications</u>. (1) It shall be unlawful for any person without the expressed consent of the grantee, to make any connection, extension, or division whether physically, acoustically, inductively, electronically, or otherwise with or to any segment of the cable

television system as installed by grantee for any purpose whatsoever, other than that connection provided at the residence in order to provide service.

- (2) It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of a franchised cable television system as installed and owned by grantee for any purpose whatsoever.
- (3) Any person found guilty of violating this section may be punished as prescribed by Tennessee state statute. (1996 Code, § 9-530)
- 9-231. Notice. Whenever under the terms of the franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served on the city, it shall be delivered either by first class U.S. Mail or by handing such notice to the city manager at the city administrative offices, and if to grantee, then by delivering by first class U.S. Mail or by handing such notice to such officer at such address as grantee shall from time to time direct. The original name and address of the officer on behalf of grantee shall be included in grantee's acceptance of the franchise. (1996 Code, § 9-531)
- **9-232.** <u>Captions</u>. The captions to sections are inserted solely for convenience and shall not affect the meaning or interpretation of this chapter. (1996 Code, § 9-532)

CHAPTER 3

ADULT-ORIENTED ESTABLISHMENTS¹

SECTION

- 9-301. Purpose.
- 9-302. Definitions.
- 9-303. License required.
- 9-304. Application for license.
- 9-305. Standards for issuance of license.
- 9-306. Permit required.
- 9-307. Application for permit.
- 9-308. Standards for issuance of permit.
- 9-309. Fees.
- 9-310. Display of license or permit.
- 9-311. Renewal of license or permit.
- 9-312. Revocation of license or permit.
- 9-313. Hours of operation.
- 9-314. Responsibilities of the operator.
- 9-315. Prohibitions and unlawful sexual acts.
- 9-316. Violations and penalty.
- 9-301. <u>Purpose</u>. It is the purpose of this chapter to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually-oriented businesses within the city. It is not the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.
- **9-302.** <u>Definitions</u>. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:
- (1) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software,

¹State law references

Tennessee Code Annotated, §§ 7-51-1101 to 7-51-112 and 7-51-1401 to 7-51-1407.

computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

- (2) "Adult cabaret" means an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.
- (3) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.
- (4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.
- (5) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.
- (6) "Adult-oriented establishment" means and includes, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises

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

- (7) "Board of commissioners" means the Board of Commissioners of the City of Fairview, Tennessee.
- (8) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.
- (9) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.
- (10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.
 - (11) "Specified sexual activities" means:
 - (a) Human genitals in a state of actual or simulated sexual stimulation or arousal;
 - (b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy; and/or
 - (c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.
 - (12) "Specified anatomical areas" means:
 - (a) Less than completely and opaquely covered:
 - (i) Human genitals, pubic region;
 - (ii) Buttocks; and
 - (iii) Female breasts below a point immediately above the top of the areola.
 - (b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.
- **9-303.** <u>License required</u>. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Fairview without first obtaining a license to operate issued by the City of Fairview.
- (2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or

corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

- (3) No license or interest in a license may be transferred to any person, partnership, or corporation.
- (4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.
- (5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within on hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.
- (6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.
- **9-304. Application for license**. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Fairview. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the recorder and to the applicant.
- (2) The application for a license shall be upon a form provided by the police chief. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including, but not limited to, all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:
 - (a) Name and addresses, including all aliases.
 - (b) Written proof that the individual(s) is at least eighteen (18) years of age.
 - (c) All residential addresses of the applicant(s) for the past three (3) years.
 - (d) The applicants' height, weight, color of eyes and hair.
 - (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
 - (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefor, and the was subject to the suspension or revocation.

- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including, but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the City of Fairview, or its environs, immediately preceding the date of the application.
- (m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.
- (n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
- (o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.
- (p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Fairview Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of commissioners.

- (4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of commissioners at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of commissioners and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Williamson County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.
- (5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief.
- **9-305.** Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:
 - (a) If the applicant is an individual:
 - (i) The applicant shall be at least eighteen (18) years of age.
 - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
 - (b) If the applicant is a corporation:
 - (i) All officers, directors and stockholders required to be named under § 9-303 shall be at least eighteen (18) years of age.
 - (ii) No officer, director or stockholder required to be named under § 9-303 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

- (c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:
 - (i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
 - (ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
- (2) No license shall be issued unless the Fairview Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.
- **9-306.** Permit required. In addition to the license requirements previously set forth for owners and operators of adult-oriented establishments, no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief.
- **9-307.** Application for permit. (1) Any person desiring to secure an permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.
- (2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:
 - (a) Name and address, including all aliases.
 - (b) Written proof that the individual is at least eighteen (18) years of age.
 - (c) All residential addresses of the applicant for the past three (3) years.
 - (d) The applicant's height, weight, color of eyes, and hair.
 - (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
 - (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or

similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.
- (i) The length of time the applicant has been a resident of the City of Fairview, or its environs, immediately preceding the date of the application.
- (j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Fairview Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.
- (4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of commissioners at which time the applicant may present evidence bearing upon the question.
- (5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief.
- **9-308.** Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:
 - (a) The applicant shall be at least eighteen (18) years of age.
 - (b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

- (c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.
- (2) No permit shall be issued until the Fairview Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application.
- **9-309.** Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.
- (2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned.
- **9-310.** Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, an member of the Fairview Police Department, or any person designated by the board of commissioners.
- 9-311. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.
- (2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.
- (3) If the Fairview Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.
- (4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue

employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

- (5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less that sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.
- (6) If the Fairview Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief.
- **9-312.** Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:
 - (a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - (b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city board of commissioners pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the city board of commissioners shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
 - (c) The operator or employee becomes ineligible to obtain a license or permit.
 - (d) Any cost or fee required to be paid by this chapter is not paid.
 - (e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.
 - (f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

- (g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
- (h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.
- (i) Any operator allows continuing violations of the rules and regulations of the Williamson County Health Department.
- (j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.
- (k) Any minor is found to be loitering about or frequenting the premises.
- (2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of commissioners, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.
- (3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.
- (4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license.
- **9-313.** Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.
- (2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Fairview Police Department, the Williamson County Sheriff's Department, or such other persons as the board of commissioners may designate.
- **9-314.** Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of commissioners. The above

information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

- (2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Fairview Police Department at all reasonable times.
- (3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Fairview Police Department at all reasonable times.
- (6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.
- (8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirely.
- (9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

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

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

- 1. Not permitted to engage in any type of sexual conduct;
- 2. Not permitted to expose their sex organs;
- 3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.
- **9-315.** Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.
- (2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.
- (3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals.
- (4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.
- (5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.
- **9-316.** <u>Violations and penalty</u>. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.
- (2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

CHAPTER 4

YARD SALES

SECTION

- 9-401. Residential properties.
- 9-402. Commercial properties.
- 9-403. Time limit for yard sales.
- 9-404. Items to be removed within twenty-four (24) hours of sale.
- 9-405. Violations and penalty.
- 9-401. Residential properties. For residential properties, there shall be a limit of four (4) yard sales permitted per calendar year without a permit process. Residential yard sale signs located off-premises from the sale must be commercial grade signs and cannot be homemade. Only directional signs may be placed on Highway 100 or Highway 96, if the sale is located on one (1) of these highways, one (1) sign may be placed in the yard made from whatever material chosen by the maker of the sign. Signs must be printed on an eighteen inch by twenty-four inch (18" x 24") Coroplast medium with directional arrow only (no addresses). Signs must be placed on a wire H stand. More than four (4) yard sales per year (calendar year) shall constitute a home based business that shall be regulated by Article 3-105.1, Subparagraph 6, and Article 3-105.2 Subparagraph 6, entitled Minor and Major Home Occupations of the City of Fairview Zoning Ordinance. (1996 Code, § 20-701)
- **9-402.** Commercial properties. For commercial businesses, there shall be a limit of three (3) yard sales permitted per year without a permit process. More than three (3) yard sales in a one (1) year period shall constitute a violation of this chapter and shall be subject to the violation provisions contained in this chapter. (1996 Code, § 20-702)
- **9-403.** <u>Time limit for yard sales</u>. All yard sales are limited to three (3) consecutive days, sales running longer than three (3) consecutive days shall constitute a home based business that shall be regulated by Article 3-105.1, Subparagraph 6, and Article 3-105.2 Subparagraph 6, entitled Minor and Major Home Occupations of the City of Fairview Zoning Ordinance. (1996 Code, § 20-703)

9-404. Items to be removed within twenty-four (24) hours of sale. All items utilized in the yard sale shall be promptly removed from the sale site and from areas that are viewable by the public within twenty-four (24) hours of the termination of the sale. These items shall include, but not be limited to, any and all signs, tables, and support structure utilized for the yard sale. (1996 Code, § 20-704)

9-405. <u>Violations and penalty</u>. Any person or entity who shall violate any of the provisions of this chapter, or who shall fail or refuses to obey any notice issued by the department of health, superintendent of the refuse collection department or the codes department with reference to the storage, accumulation, or disposal of refuse as described in § 17-103, shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate and distinct offense. (1996 Code, § 20-705)

TITLE 10

ANIMAL CONTROL¹

CHAPTER

- 1. IN GENERAL.
- 2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Violations and penalty.
- **10-101.** Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

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

- **10-102.** <u>Keeping near a residence or business restricted</u>. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line.
- **10-103.** Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

¹Wherever this title mentions dogs it pertains to dogs and cats.

- **10-104.** Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.
- 10-105. <u>Keeping in such manner as to become a nuisance prohibited</u>. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason.
- 10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of commissioners. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

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

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

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs.
- 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.** <u>Dogs to wear tags</u>. 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. 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.² (1) Definition of terms.

¹State law reference

Tennessee Code Annotated, § 68-8-107.

²See cases stating the state's authority to regulate vicious dogs: *State of Tennessee v. Denver Hartly*, 15 TAM 23-2 (Tenn. S. Ct. 1990), and *Darnell v. Shappard*, 3 S.W.2d 661 (1928).

(a) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.

(b) "Vicious dog" means:

- (i) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
- (ii) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter; or
- (iii) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or
- (iv) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- (c) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot (1'). All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.
- (2) <u>Confinement</u>. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.
- (3) <u>Leash and muzzle</u>. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- (4) <u>Signs</u>. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.
- (5) <u>Dog fighting</u>. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.
- (6) <u>Insurance</u>. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the city clerk of public liability

insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

- (7) <u>Penalties</u>. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars (\$10.00) and not more than fifty dollars (\$50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt.
- **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 between the hours of 11:00 P.M. and 6:00 A.M. (modified)
- 10-206. <u>Confinement of dogs suspected of being rabid</u>. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.
- 10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of commissioners. If the dog is wearing a tag 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 commissioners, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

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

Tennessee Code Annotated, § 44-17-501, et seq., "The Tennessee Spay/Neuter Law," prohibits persons from adopting a dog or cat from (continued...)

¹State law reference

10-208. <u>Destruction of vicious or infected dogs running at large</u>. 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 police officer or other properly designated officer.¹

10-209. <u>Violations and penalty</u>. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹(...continued)

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 thirty (30) days of the adoption if the animal is sexually mature, or within (30) days after the animal reaches six (6) months of age if it is not sexually mature.

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

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

Tennessee Code Annotated, §§ 44-17-301, et seq.

¹State law reference

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

- 1. ALCOHOL.
- 2. OFFENSES AGAINST THE PEACE AND QUIET.
- 3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
- 4. LITTERING.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking alcoholic beverages in public, etc.
- 11-102. Minors in beer places.
- 11-103. Violations and penalty.
- 11-101. <u>Drinking alcoholic beverages in public, etc</u>. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless permited and approved by city officials. (modified)
- 11-102. <u>Minors in beer places</u>. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption.
- 11-103. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

Animal control: title 10.

Fireworks: title 7.

Residential and utilities: title 12.

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

Traffic offenses: title 15.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

¹Municipal code references

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

- 11-201. Anti-noise regulations.
- 11-202. Violations and penalty.
- 11-201. <u>Anti-noise regulations</u>. Subject to the provisions of this article, the creating of any unreasonably loud, disturbing and unnecessary noise is prohibited, including but not limited to those noises specifically prohibited under this division. 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) The standards which shall be considered in determining whether a violation of this section exists shall include, but shall not be limited to, the following:
 - (a) The volume of the noise.
 - (b) The intensity of the noise.
 - (c) Whether the nature of the noise is usual or unusual.
 - (d) Whether the origin of the noise is natural or unnatural.
 - (e) The volume and intensity of the background noise, if any.
 - (f) The proximity of the noise to residences or any sleeping facilities.
 - (g) The nature and zoning of the area within which the noise emanates.
 - (h) The density of inhabitation of the area within which the noise emanates.
 - (i) The time of the day or night the noise occurs.
 - (j) The duration of the noise.
 - (k) Whether the noise is recurrent, intermittent or constant.
 - (l) Whether the noise is produced by a commercial or non-commercial activity.
 - (m) Whether voluntary compliance is obtained.
- (2) <u>Construction operations</u>. The construction and construction related activities, erection, demolition, alteration or repair of any building in any area, the use of any motor-driven construction equipment, and the construction or repair of streets and highways in any area, other than between the hours of 7:00 A.M. and 8:00 P.M. Monday through Saturday, and between the hours of 9:00 A.M. and 5:00 P.M. on Sunday, is prohibited, except when the sounds generated by such activities are not plainly audible from adjacent properties, or when permitted by the city's planning department for a period not to exceed thirty (30) consecutive days or thirty (30) days in one (1) calendar year. The decision of the

planning department to allow work to be done outside of such hours shall be based on one or more of the following factors:

- (a) Public health or safety will be impaired by delay of the work.
- (b) Unreasonable loss or inconvenience would result through delay, and public health or safety will not be impaired by allowing the work to proceed.
- (c) The noise produced by such operations will not cause an unreasonable disturbance to the occupants of nearby properties.
- (d) Additionally, construction, excavations or repairs of bridges, streets, highways, or public utility facilities at any time, by or on behalf of the city, the county, the state, or a public utility, shall be permitted when the public welfare and convenience renders it impracticable to perform such work during the day.
- (2) <u>Cleaning of streets and parking areas</u>. The use of street sweepers or similar equipment for cleaning streets, drives and parking areas and parking lots between the hours of 10:00 P.M. and 6:00 A.M. is prohibited.
- (3) <u>Loading and unloading operations; delivery and service vehicles</u>. No person shall create or allow any loud and excessive noise in connection with: the loading or unloading of any vehicle; the delivery, opening and destruction of bales, boxes, crates or other containers; or the operation of any vehicle or equipment used in providing any service. In addition to any other disturbances of the public peace caused by such actions, the following restrictions shall apply:
 - (a) At any non-residential property which is either immediately adjacent to or across a public roadway from residentially zoned property, deliveries and services shall be subject to the following prohibitions:
 - (i) The pick-up or delivery of materials and products by parties other than retail customers shall be prohibited before 7:00 A.M. and after 9:00 P.M. on any day.
 - (ii) The operation of any vehicle or equipment used in providing any maintenance or repair service outside any building shall also be prohibited during the same hours if the sounds associated with such vehicle or equipment operations are plainly audible from the interior of any residence.
 - (iii) Commercial delivery or service vehicles that arrive at any such non-residential property outside of such hours shall be parked on the opposite side of the building from the residentially zoned property. For the purposes of this section, the term "residentially zoned property" shall mean any property zoned in any residential zoning classification. "Non-residential property" means property within any other zoning district.
 - (iv) Any vehicle brought to any such non-residential property for the purpose of making pickups or deliveries may not be left in place with its engine or any auxiliary equipment,

including but not limited to refrigeration units, compressors or generators, in operation for more than two hours.

- (v) The prohibitions contained in this section shall not apply to or be enforced in regard to:
 - (A) Operations of the U.S. Postal Service or other parcel distribution facilities.
 - (B) The provision of services at any time when a delay in the provision of such services would jeopardize public health or safety or would pose an unreasonable risk to any persons or property.
- (4) <u>Loudspeakers or amplifiers</u>. The operation of any personal or commercial sound amplification or reproduction equipment in violation of the following standards shall be prohibited:
 - (a) Sounds produced by such equipment on private property shall not be plainly audible at a distance of fifty feet (50') beyond the property boundary between the hours of 10:00 P.M. and 7:00 A.M.
 - (b) When such equipment is in a motor vehicle, the sound shall not be plainly audible at a distance of more than fifty feet (50') from the vehicle.
 - (c) When such equipment is not in a vehicle but is on a public street, sidewalk or other outdoor public property, the sound shall not be plainly audible at a distance of more than one hundred feet (100') in any direction from the equipment's speakers; provided further that no such equipment may be operated on a public street, sidewalk or other outdoor public property between the hours of 10:00 P.M. and 7:00 A.M., except within the interior of a vehicle.
 - (d) The prohibitions contained in this section shall not apply to or be enforced in regard to:
 - (i) 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. However, no such use shall be allowed until a permit therefor is secured from the city's planning department. Hours for the use of an amplifier or public address system will be designated in the permit issued and the use of such systems shall be restricted to the hours designated in the permit.
 - (ii) Use of loudspeakers or amplifiers at city sponsored or authorized events. The reasonable use of amplifiers and loudspeakers at events in city parks or on other public property between the hours of 8:00 A.M. and 10:00 P.M. when such use is authorized by the city. In the event that the use of amplifiers or loudspeakers has been authorized by the city at such an event, no other amplification of sound will be permitted within the area of the event except for that which has been authorized by the city.

- (iii) Use of loudspeakers or amplifiers at school events. The reasonable use of amplifiers and loudspeakers at athletic events and other functions at school stadiums and other school facilities where amplifiers or loudspeakers are customarily used, between the hours of 8:00 A.M. and 11:00 P.M. Discretion may be given for uses outside of these hours for extenuating circumstances such as weather delays, team travel restrictions, and circumstances where health and safety require the use of amplifiers and loudspeakers.
- (iv) Other authorized special events. The reasonable use of loudspeakers or amplifiers at special events approved by the city, subject to any conditions or restrictions regarding noise as may be prescribed by the city. In the event that a special event has been approved by the city, no other amplification of sound will be permitted within the area of the special event except for that which has been applied for and authorized by the city.
- (5) <u>Miscellaneous prohibited noises enumerated</u>. In addition to other acts prohibited under this division, the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this division, but this enumeration shall not be deemed to be exclusive, namely:
 - (a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or other vehicle except as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
 - (b) Yelling, shouting, etc. Yelling, shouting, whistling or singing on the public streets or other outdoor areas 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 operated or equipped in such manner as to cause loud and unnecessary grating, grinding, rattling or other noise.
 - (e) Exhaust discharge. To discharge into the open air the exhaust of any motor vehicle or other engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (f) Power tools and lawn maintenance. The use of any power tools, mowers or grounds keeping equipment that is plainly audible from

the interior of any residence between the hours of 9:00 P.M. and 6:00 A.M.

- (g) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street or sidewalk adjacent to any hospital, school, institution of learning, church or other religious institution, or court while the same is in session.
- (h) Noise from commercial sites affecting residential property. The creation of any sound from the activities on a commercial site that can be heard on any residentially zoned property and exceeds seventy (70) decibels, as measured from such residentially zoned property by using equipment operated or approved by the police chief or city manager. Decibel levels shall be measured on the A-weighted scale, unless the city manager authorizes an alternate form of measurement. For the purposes of this section, the term "residentially zoned property" shall mean any property zoned in any residential zoning classification. "Non-residential property" means property within any other zoning district.
- (6) <u>"Plainly audible" definition</u>. The term "plainly audible" means any sound that clearly can be heard by human ears, provided that words or phrases need not be discernible and such sound may include bass reverberation.
- (7) <u>Exceptions</u>. None of the terms or prohibitions of this article shall apply to or be enforced in regard to:
 - (a) Government vehicles. Any vehicle of the city, county or state while engaged upon necessary public business.
 - (b) Authorized special events. Sounds associated with special events, as approved by the city, in addition to those sounds produced by the reasonable use of loudspeakers or amplifiers allowed under this division, subject to any conditions or restrictions regarding noise as may be prescribed by the city.
 - (c) Bells and chimes. Periodic sounding of bells and chimes from properties zoned for service-institution uses, provided that such bells and chimes may not be sounded between 10:00 P.M. and 8:00 A.M.
 - (d) Emergency warnings. The sounding of tornado sirens, lightning detectors, public address systems and other such devices when necessary to warn the public of dangerous conditions, provided further that such devices may also be tested as needed to ensure proper functionality.
 - (e) Fireworks displays. The display of fireworks when a permit has been issued for such display by the city, subject to the conditions of said permit.
- (8) <u>Responsibility for violations</u>. Whenever a violation of any of the provisions within this division occurs, any of the following individuals or entities may be held responsible, taking into account the circumstances involved in the violation:

- (a) The operator of any vehicle or equipment from which the noise is generated.
- (b) The owner of any vehicle or equipment from which the noise is generated.
- (c) Any person carrying out any delivery or service which generates noise in violation of this division.
- (d) The owner of the property at which a delivery or service is carried out or from which a noise is generated in violation of this division.
- (e) The owner of any business for which a delivery or service is carried out or from which a noise is generated in violation of this division.
- (f) Any person otherwise creating a noise in violation of this division.
- (g) Any person who has the authority and ability to prevent the emission or continuation of a noise which violates this division, but fails to do so.
- (9) The city's police officers and codes enforcement officers may, at their discretion in consideration of the situation, cite any of the individuals or entities identified in this section for any violation of the provisions within this division. (Ord. #2020-17, Sept. 2020, modified)
- 11-202. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-301. Trespassing.
- 11-302. Interference with traffic.
- 11-303. Violations and penalty.

11-301. Trespassing. (1) On premises open to the public.

- (a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.
- (b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.
- (2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.
- (3) <u>Vacant buildings</u>. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
- (4) <u>Lots and buildings in general</u>. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
- (5) <u>Peddlers. etc</u>. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor. transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹
- 11-302. <u>Interference with traffic</u>. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk. bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

Provisions governing peddlers: title 9, chapter 1.

¹Municipal code reference

11-303. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

LITTERING

SECTION

- 11-401. Definitions.
- 11-402. Littering offenses.
- 11-403. Scope of regulation.
- 11-404. Violations and penalty.
- **11-401.** <u>**Definitions**</u>. As used in this chapter, unless the context otherwise requires:
- (1) "Garbage" means and includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (2) "Litter" means and includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in *Tennessee Code Annotated*, § 39-17-1503(11), and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.
- (3) "Refuse" means and includes all putrescible and nonputrescible solid waste.
- (4) "Rubbish" means and includes nonputrescible solid waste consisting of both combustible and non-combustible waste.
- **11-402.** <u>Littering offenses</u>. (1) A person commits the civil offense of littering who:
 - (a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;
 - (b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or
 - (c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.
- (2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.
- (3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the

city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering.

- 11-403. <u>Scope of regulation</u>. The regulation of litter in this chapter is limited to amounts of litter less than or equal to five (5) pounds in weight or seven and one-half (7 1/2) cubic feet in volume.¹
- **11-404.** <u>Violations and penalty</u>. Littering is a civil offense punishable by a penalty under the general penalty provision of this code.

¹State law reference

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

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

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Builder and contractor license.
- 12-104. Reserved.
- 12-105. Applicatons and permits fee structure.
- 12-106. Violations and penalty.

12-101. Building code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the *International Building Code*, ² 2018 edition, is adopted by reference as fully as if copied herein in its entirety, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, are

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

¹Municipal code references

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the building code.

One (1) copy of the building code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #2020-25, Dec. 2020)

- **12-102.** <u>Modifications</u>. (1) <u>Definitions</u>. Whenever the building code refers to the "chief appointing authority," it shall be deemed to be a reference to the mayor. When the "building official" is named it shall, for the purposes of the building code, mean such person as the mayor shall have appointed or designated to administer and enforce the provisions of the building code.
- (2) Section 903, "Automatic Sprinkler Systems," of the *International Building Code*, 2018 edition, is adopted in its entirety with the following modifications to the following sections:
 - (a) Section 903.2.1.1 Group A-1 (1) The fire area exceeds 5,000 square feet.
 - (b) Section 903.2.1.3 Group A-3 (1) The fire area exceeds 5,000 square feet.
 - (c) Section 903.2.1.4 Group A-4 (1) The fire area exceeds 5,000 square feet.
 - (d) Section 903.2.3 Group E (1) Throughout all Group E fire areas greater than 5,000 square feet.
 - (e) Section 903.2.4 Group F (1) A Group F-1 fire area exceeds 5,000 square feet.
 - (f) Section 903.2.7 Group M (1) A Group M fire area exceeds $5{,}000$ square feet.
 - (g) Section 903.2.8 Group R A Group R an automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area except for one- and two-family dwellings.
 - (h) Section 903.2.9 Group S-1 (1) A group S-1 fire area exceeds 5,000 square feet.
 - (i) Section 903.2.9.1 Repair Garages.
 - (i) Buildings having two or more stories above grade plane, including basements, with a fire area containing a repair garage exceeding 5,000 square feet.
 - (ii) Buildings no more than one story above grade plane, with a fire area containing a repair garage exceeding 5,000 square feet.
 - (j) Section 903.2.10 Group S-2 enclosed parking garages.
 - (i) Where the fire area of the enclosed parking garage exceeds 5,000 square feet. (Ord. #2020-25, Dec. 2020)

12-103. Builder and contractor license. Any licensed contractor applying for a building permit is required to pay a license tax annually in the amount of fifty dollars (\$50.00). Builder and contractor licenses are valid only during calendar year in which the license is obtained and no contractor or builder shall be licensed by the City of Fairview without first having complied with *Tennessee Code Annotated*, title 62, chapter 6. (1996 Code, § 12-103, as amended by Ord.#2018-23, Dec. 2018, modified, and amended by Ord.#2019-17, Sept. 2019)

12-104. Reserved.

- 12-105. Applications and permits fee structure. (1) Single family detached residential and duplex residential new construction building permits. One dollar and eighty five cents (\$1.85) per square foot under roof including storage areas accessible by permanent stairways/doorways (revenue to be allocated forty two percent (42%) to general fund, forty two percent (42%) to facilities fund and sixteen percent (16%) to a parks and recreation fund)
- (2) <u>Single family residential and duplex residential renovation</u> <u>building permits.</u> Fifty cents (\$0.50) per square foot.
- (3) Commercial, industrial and multi-family new construction building permits. Five hundred dollars (\$500.00) to be allocated to the facilities fund, plus:
 - (a) Three dollars (\$3.00) per square foot up to one thousand (1,000) square feet under roof.
 - (b) Two dollars (\$2.00) per square foot from one thousand one (1,001) square feet up to five thousand (5,000) square feet under roof.
 - (c) One dollar and fifty cents (\$1.50) per square foot for everything over five thousand (5,000) square feet under roof.
- (4) <u>Commercial, industrial and multi-family renovation and build-out building permits</u>. Seventy-five (75) cents per square foot
 - (5) Mechanical permits not included in a building permit. (a) Twenty five dollars (\$25.00) per each H.V.A.C. (heating, ventilation and air conditioning) unit installed.
 - (b) Twenty five dollars (\$25.00) per each natural gas line installed.
- (6) Accessory structures and decks not included with a building permit.

Twenty five cents (\$0.25) per square foot, twenty five dollar (\$25.00) minimum.

(7) <u>Plans, plats, annexation and rezoning submission and application</u> fees.

Concept plan \$50.00

Annexation application \$100.00

Rezoning application \$200.00

Residential preliminary plat \$250.00 + \$20.00 per acre + \$5.00

per lot

Residential final plat \$100.00 + \$10.00 per lot

Residential P.U.D. \$400.00 + \$25.00 per acre

preliminary plat

Residential P.U.D. final plat \$200.00 + \$10.00 per dwelling unit

Commercial site plan \$200.00 + \$0.25 per square foot

Commercial P.U.D. \$500.00 + \$100.00 per acre

preliminary plat

Commercial P.U.D. final plat \$50.00 + \$0.05 per acre

(8) <u>Miscellaneous fees</u>.

Property line adjustment \$100.00

Lot split or redivision \$100.00

Minor/major modifications \$100.00

Mobile food pantry or food \$50.00 per year

truck permit

Residential rental/lease \$25.00 per unit (house, apartment,

property permit etc.) year

(9) <u>Engineering fees for initial submissions</u>.

Annexation: Eleven (11) to \$250.00

fifty (50) acres

Annexation: Fifty-one (51) \$500.00

acres and over

Rezoning \$500.00

Site plan review \$500.00 + \$0.02 per square foot of

commercial space and/or \$10.00 per

dwelling unit

Revision to site plan \$500.00 + \$0.02 per square foot of

commercial space and/or \$10.00 per

dwelling unit

P.U.D. development plan \$1,000.00 + \$0.02 cents per square

foot of commercial space and/or

\$10.00 per dwelling unit

Revised P.U.D. development

plan

\$1,000.00 + \$0.02 per square foot of commercial space and/or \$10.00 per

dwelling unit

Subdivision preliminary plat \$500.00 + \$25.00 per lot

Subdivision final plat \$500.00 + \$25.00 per lot

(10) Resubmissions and subsequent review engineering fees. Beginning with the third submission for review, and applying to each subsequent review, an amount equal to one-half (1/2) of the original submission fee and one half (1/2) of the original engineering review fee shall be assessed and must be remitted to the city with the third and each subsequent submission for review. (1996 Code, § 12-103, as amended by Ord. #2018-23, Dec. 2018, modified, amended by Ord. #2019-17, Sept. 2019, and amended by Ord. #2023-13, Jan. 2024)

12-106. <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of this chapter as herein adopted by reference and modified. The violation of any section of the chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation continues or is committed shall constitute a separate offense. (Ord. #2020-25, Dec. 2020, as amended by Ord. #2019-17, Sept. 2019)

PLUMBING CODE¹

SECTION

12-201. Plumbing code adopted.

12-202. Modifications.

12-203. Violations and penalty.

12-201. Plumbing code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the *International Plumbing Code*, ² 2018 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code.

One (1) copy of the plumbing code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #2020-25, Dec. 2020, modified)

12-202. <u>Modifications</u>. Definitions. Wherever the plumbing code refers to the "code official" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the plumbing code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the board of commissioners.

Within the plumbing code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the name official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned.

¹Municipal code references Street excavations: title 16.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

12-203. <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #2020-25, Dec. 2020)

FUEL GAS CODE¹

SECTION

- 12-301. Title and definitions.
- 12-302. Purpose and scope.
- 12-303. Modifications.
- 12-304. Use of existing piping and appliances.
- 12-305. Bond and license.
- 12-306. Powers and duties of inspector.
- 12-307. Permits.
- 12-308. Inspections.
- 12-309. Certificates.
- 12-310. Nonliability.
- 12-311. Violations and penalty.
- **12-301.** <u>Title and definitions</u>. This chapter and the code herein adopted by reference shall be known as the gas code of the city. The following definitions are provided for the purpose of interpretation and administration of the gas code.
- (1) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.
- (2) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.
- (3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.
- (4) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the city manager.
- (5) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals. (Ord. #2020-25, Dec. 2020)
- **12-302.** Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the *International Fuel Gas*

Gas system administration: title 19, chapter 1.

¹Municipal code reference

Code, ¹ 2018 edition, and all subsequent amendments and additions to said code, which are hereby adopted by and incorporated by reference and made a part of this chapter as if fully set forth herein.

One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #2020-25, Dec. 2020)

12-303. <u>Modifications</u>. Definitions. Wherever the gas code refers to the "codes official" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the gas code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the board of commissioners.

Within the gas code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned.

12-304. <u>Use of existing piping and appliances</u>. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (Ord. #2020-25, Dec. 2020)

12-305. <u>Bond and license</u>. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the city manager a good and sufficient bond in the penal sum of ten thousand dollars (\$10,000.00), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

- (2) Upon approval of said bond, the person desiring to do such work shall secure from the city recorder a nontransferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the city recorder.
- (3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (Ord. #2020-25, Dec. 2020)
- **12-306.** <u>Powers and duties of inspector</u>. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.
- (2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.
- (3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (Ord. #2020-25, Dec. 2020)
- 12-307. <u>Permits</u>. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the city manager; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.
- (2) When only temporary use of gas is desired, the recorder may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the

- consumer's gas piping to be used is given a test equal to that required for a final piping inspection.
- (3) Except when work in a public street or other public way is involved, the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (Ord. #2020-25, Dec. 2020)
- **12-308.** <u>Inspections</u>. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.
- (2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches (6") in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (Ord. #2020-25, Dec. 2020)
- **12-309.** <u>Certificates</u>. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (Ord. #2020-25, Dec. 2020)
- 12-310. <u>Nonliability</u>. This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (Ord. #2020-25, Dec. 2020)
- **12-311.** Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense, or the license of such person may be revoked, or both fine and revocation of license may be imposed. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #2020-25, Dec. 2020)

RESIDENTIAL CODE

SECTION

- 12-401. Residential code adopted.
- 12-402. Modifications.
- 12-403. Violations and penalty.

12-401. Residential code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the *International Residential Code*, 2018 edition, with appendices F, G, and M, exclusive of section R313.2 and with modifications listed below (§ 12-402), is adopted by reference as fully as if copied herein in its entirety and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the residential code.

One (1) copy of the residential code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #2020-25, Dec. 2020)

12-402. <u>Modifications</u>. Definitions. Wherever the residential code refers to the "code official" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the residential code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the board of commissioners.

Within the residential code when reference is made to the duties of certain officials named therein, that designated official of the City of Fairview, Tennessee who has duties corresponding to those of the named official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned.

12-403. <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #2020-25, Dec. 2020)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

ENERGY CONSERVATION CODE¹

SECTION

12-501. Energy conservation code adopted.

12-502. Modifications.

12-503. Violations and penalty.

12-501. Energy conservation code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the *International Energy Conservation Code*, ² 2018 edition, and all subsequent amendments or additions to said code, as prepared and adopted by International Code Council, are hereby adopted and incorporated by reference as a part of this code as fully as if herein copied verbatim, hereinafter referred to as the energy conservation code.

One (1) copy of the energy conservation code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #2020-25, Dec. 2020)

12-502. <u>Modifications</u>. Definitions. Wherever the energy code refers to the "codes official" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the residential code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the board of commissioners.

Within the energy code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named official shall be deemed to

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

¹Municipal code references

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

be the responsible official insofar as enforcing the provisions of the code are concerned.

12-503. <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #2020-25, Dec. 2020)

PROPERTY MAINTENANCE CODE

SECTION

12-601. Property maintenance code adopted.

12-602. Modifications.

12-603. Violations and penalty.

12-601. Property maintenance code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the *International Property Maintenance Code*, 2018 edition, and all subsequent amendments or additions to said code as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as fully as if copied herein verbatim as a part of this code, and are hereinafter referred to as the property maintenance code.

One (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2020-25, Dec. 2020)

12-602. <u>Modifications</u>. Definitions. Wherever the property maintenance code refers to the "codes official" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the property maintenance code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the board of commissioners.

Within the property maintenance code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned.

12-603. <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #2020-25, Dec. 2020)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

MECHANICAL CODE¹

SECTION

12-701. Mechanical code adopted.

12-702. Modifications.

12-703. Violations and penalty.

12-701. <u>Mechanical code adopted</u>. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the *International Mechanical Code*, ² 2018 edition, and all subsequent amendments or additions to said code as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as fully as if copied herein verbatim as a part of this code.

One (1) copy of the mechanical code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. #2020-25, Dec. 2020)

12-702. <u>Modifications</u>. Wherever the mechanical code refers to the "code official," it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the mechanical code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the board of commissioners.

Within the mechanical code when reference is made to the duties of certain officials named therein, that designated official of City of Fairview, Tennessee who has duties corresponding to those of the named official shall be deemed to be the responsible official insofar as enforcing the provisions of the code are concerned. (Ord. #2020-25, Dec. 2020, modified)

Street excavations: title 16.

¹Municipal code references

²Copies of this code (and any amendments) may be purchased from the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

12-703. <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #2020-25, Dec. 2020)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. SLUM CLEARANCE.
- 3. JUNKYARDS.
- 4. JUNKED MOTOR VEHICLES.
- 5. RULES AND REGULATIONS FOR THE MOVING OF BUILDINGS OR STRUCTURES.
- 6. NUISANCES.
- 7. TREE PLANTING AND PROTECTION.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.
- **13-101.** Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.
- **13-102.** <u>Stagnant water</u>. 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.

Animal control: title 10.

International property maintenance code: title 12.

Littering generally: title 11. Littering streets, etc.: § 16-107.

¹Municipal code references

- **13-103.** <u>Weeds and grass</u>. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the recorder to cut such vegetation when it has reached a height of over one foot (1').
- **13-104.** Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.
- (2) <u>Designation of public officer or department</u>. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.
- (3) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. If no valid last known address exists for the owner of record, the city may publish the notice in a newspaper of general circulation in the county for two (2) consecutive issues, or personally deliver notice to owner. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:
 - (a) A brief statement that the owner is in violation of § 13-104 of the Fairview Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;
 - (b) The person, office, address, and telephone number of the department or person giving the notice;
 - (c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city and
 - (d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
- (4) <u>Clean-up at property owner's expense</u>. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the

transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Williamson County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

- (5) Clean-up of owner-occupied property. When the owner of an owner occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.
- (6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.
- (7) <u>Judicial review</u>. Any person aggrieved by an order or act of the board of commissioners under subsection (4) above may seek judicial review of

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

- (8) <u>Supplemental nature of this section</u>. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.
- 13-105. <u>Dead animals</u>. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the recorder and dispose of such animal in such manner as the recorder shall direct.
- 13-106. <u>Health and sanitation nuisances</u>. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.
- **13-107.** <u>Violations and penalty</u>. 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.

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.
- 13-201. <u>Findings of board</u>. Pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*, the board of commissioners finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.
- **13-202.** <u>Definitions</u>. (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" means the board of commissioners charged with governing the city.
- (3) "Municipality" means the City of Fairview, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.
- (4) "Owner" means the holder of title in fee simple and every mortgagee of record.
- (5) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

Tennessee Code Annotated, title 13, chapter 21.

¹State law reference

- (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" means any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.
- (8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq*.
- (9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.
- 13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.
- 13-204. <u>Initiation of proceedings; hearings</u>. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.
- 13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:
- (1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding

- fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or
- (2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.
- 13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."
- 13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.
- 13-208. Lien for expenses; sale of salvage 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 Williamson County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Fairview to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

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

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city, or, in the absence of such newspaper, one (1) printed and published in the county and circulating in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Williamson County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of 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.

- 13-212. <u>Additional powers of public officer</u>. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:
- (1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.
- 13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

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

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

$JUNKYARDS^{12}$

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Permits and fees.
- 13-309. Violations and penalty.
- **13-301.** <u>Definitions</u>. (1) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
- (2) "Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.
- (3) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.
- (4) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.
- (5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city.

¹Municipal code reference Refuse and trash disposal: title 17.

²State law reference Tennessee Code Annotated, § 7-51-701.

- **13-302.** <u>Junkyard screening</u>. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter.
- **13-303.** <u>Screening methods</u>. The following methods and materials for screening are given for consideration only:
- (1) <u>Landscape planting</u>. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.
- (2) <u>Earth grading</u>. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.
 - (3) Architectural barriers. The utilization of:
 - (a) Panel fences made of metal, plastic, fiberglass, or plywood.
 - (b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative; and
 - (c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.
- (4) <u>Natural objects</u>. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.
- **13-304.** Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.
- (1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.
- (2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.
- (3) Screening shall be located on private property and not on any part of the highway right-of-way.
- (4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area.
- 13-305. <u>Maintenance of screens</u>. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to ensure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days the city may replace said screening and require payment upon demand.

- 13-306. <u>Utilization of highway right-of-way</u>. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition.
- 13-307. <u>Non-conforming junkyards</u>. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:
 - (1) The junkyard must continue to be lawfully maintained.
 - (2) There must be existing property rights in the junk or junkyard.
 - (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.
 - (5) The junkyard may not be extended or enlarged.
- **13-308.** Permits and fees. It shall be unlawful for any junkyard located within the city to operate without a "junkyard control permit" issued by the city.
- (1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.
- (2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.
- (3) All applications for an original or renewal permit shall be made on a form prescribed by the city.
- (4) Permits shall be issued only to those junkyards that are in compliance with these rules.
- (5) A permit is valid only while held by the permittee and for the location for which it is issued.
- 13-309. <u>Violations and penalty</u>. 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.

JUNKED MOTOR VEHICLES

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.
- **13-401.** <u>Definitions</u>. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:
 - (1) (a) "Junk vehicle" means a vehicle of any age that is damaged or defective, including, but not limited to, any one (1) 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.
- (b) "Vehicle" means 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.
- (2) "Person" means any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.
- (3) "Private property" means and includes all property that is not public property, regardless of how the property is zoned or used.
- (4) "Traveled portion of any public street or highway" means 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.
- **13-402.** <u>Violations a civil offense</u>. 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.
- **13-403.** Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:
 - (a) 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.

- (b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.
- (2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.
- 13-404. 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 city judge to issue a summons; or
- (2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, §§ 7-63-101, *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.
- 13-405. <u>Violations and penalty</u>. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. Each day the violation of this chapter continues shall be considered a separate violation.

RULES AND REGULATIONS FOR THE MOVING OF BUILDINGS OR STRUCTURES

- 13-501. Permit required.
- 13-502. Application for permit.
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- 13-507. Additional requirements for relocation of any building or structure within the City of Fairview.
- 13-508. Fee.
- 13-509. Exemptions.
- 13-510. Violations and penalty.
- **13-501.** <u>Permit required</u>. No building or structure shall be moved through or across any street or highway within the City of Fairview without first obtaining a permit from the building inspector. (1996 Code, § 13-201)
- 13-502. <u>Application for permit</u>. Applicants for a permit under this chapter must first file with the building inspector a written application setting forth the following information:
 - (1) Type and kind of building or structure to be moved;
- (2) The extreme dimensions of the length, height and width of the building or structure;
 - (3) The structure's present location and proposed new location; and
- (4) The approximate time such building or structure will be upon the streets, and contemplated route that will be taken from present to new location. (1996 Code, § 13-202)
- **13-503.** <u>Rejection of application</u>. The building inspector shall reject any application for permit, the permit shall not be issued and the building or structure shall not be moved over the streets or highways of the City of Fairview if, in his/her opinion:
- (1) The moving of any building or structure will cause serious injury to persons or property;
- (2) The moving of any building or structure will cause serious injury to the streets or other public improvements;
- (3) The building or structure to be moved has deteriorated more than fifty percent (50%); or

- (4) The moving of the building or structure will violate any of the requirements of the building or plumbing code or of the zoning regulations. (1996 Code, § 13-203)
- 13-504. <u>Bond required</u>. Prior to the issuance of such permit, the building inspector shall require the person desiring such permit to execute a bond with corporate surety to the building inspector's satisfaction.
- (1) Such bond shall be made payable to the City of Fairview and for such amount as the building inspector prescribes.
- (2) Such bond shall indemnify the City of Fairview against any damage caused by the moving of such building or structure to streets, curbs, sidewalks, shade trees, highways and any other property which may be affected by the moving of a building or structure.
- (3) Such surety bond shall be conditioned upon liable for strict compliance with the terms of said permit, as to route to be taken and limit of time in which to effect such removal and to repair or compensate for the repair and to pay said applicable governing body as liquidated damages an amount to be prescribed by the building inspector not exceeding fifty dollars (\$50.00) for each and every day's delay in completing such removal or in repairing any damages to property or public improvement, or in clearing all public streets, alleys or highways of all debris occasioned thereby.
- (4) The mover shall have liability insurance of one million dollars (\$1,000,000.00) or more. Evidence of such insurance shall be furnished to the building inspector's office prior to moving any building or structure. (1996 Code, § 13-204)
- 13-505. <u>Notices required</u>. Upon the issuance of such permit, the mover shall cause notice to be given to the sheriff's office, all telephone or light companies and all other whose property may be affected by such move. Receipt of such and any instructions, comments or notices shall be furnished by the mover to the building inspector before the building or structure is moved. (1996 Code, § 13-205)
- **13-506.** <u>Public safety requirements</u>. (1) The owner or person moving a building or structure shall, employ at their expense, two (2) vehicles with safety equipment notices and flashing devices to be placed before and after the structure being moved to divert and caution traffic.
- (2) No building or structure shall be moved before 10:00 P.M. or after 6:00 A.M. All buildings or structures shall be moved to their final location in a time period not to exceed five (5) days after the building or structure has either been moved from its original location or has entered the City of Fairview.
- (3) Every building or structure shall have sufficient lights continuously burning between sunset and sunrise for the protection of the public.

- (4) There shall be a minimum of five (5) red lights on each street side of the building or structure; such red lights shall be attached to the building or structure in such a fashion as to indicate extreme width, height and size.
- (5) The owner or person moving the building or structure shall obtain all necessary permits and meet all requirements of the State of Tennessee as defined in *Tennessee Code Annotated*, title 55. (1996 Code, § 13-206)
- 13-507. Additional requirements for relocation of any building or structure within the City of Fairview. (1) No permit to move any building or structure to a location within the City of Fairview shall be issued until the building board of adjustments and appeals finds, after a public hearing, that the building or structure is structurally sound, that the condition of the building or structure does not constitute a hazard to life or limb, and that the building or structure shall be made to comply with the requirements and limitations of the regulations relating to the zoning and building codes of the City of Fairview.
- (2) Notice of hearing. Notice of the public hearing shall be mailed to the owner of the building or structure being moved, the owner of the site to which the building or structure is to be moved and all land owners adjacent to and across the road from the property where the building or structure is being moved not less than five (5) days prior to the hearing by the person applying for the permit.
- (3) <u>Plans required</u>. Plans shall be submitted which disclose such alterations, modifications or repairs as are necessary to ensure compliance with the regulations relating to zoning and building or structure codes of the City of Fairview. Also, a timetable of such repairs and alterations shall be submitted.
- (4) <u>Plans for restoration of original site</u>. If applicable, plans to restore the site from which the building or structure is moved must be submitted by the owner and approved by the building board of adjustments and appeals.
- (5) <u>Time for compliance</u>. The time to bring the structure into conformance with the City of Fairview standards shall not exceed one hundred twenty (120) days. However, the building board of adjustments and appeals may extend the time limit, upon appeal by the owner of the structure for cause, to whatever time it feels is necessary. (1996 Code, § 13-207)
- 13-508. <u>Fee</u>. The fee shall be twenty-five dollars (\$25.00) for moving any building or structure or part of any building or structure through the City of Fairview, or removal from the City of Fairview to be relocated outside the City of Fairview, or relocation of any building or structure within the City of Fairview. (1996 Code, § 13-208)
- **13-509.** Exemptions. The terms of this chapter shall not be applicable to trailers with widths of fourteen feet (14') or less and any building or structure used for agricultural or storage purposes with widths of less than fourteen feet (14'). (1996 Code, § 13-209)

- 13-510. <u>Violations and penalty</u>. (1) <u>Causing damage to private property</u>. No firm, partnership, corporation or any other individual moving any building or structure, or part of any building or structure through, into, or out of the City of Fairview, shall deface, injure, or destroy private property in the City of Fairview.
- (2) <u>Penalties</u>. Any company, firm, partnership, corporation or any individual who violates § 13-510(1) of this chapter shall be guilty of a misdemeanor with original jurisdiction in general sessions court for Williamson County, Tennessee, and upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each separate offense or incident. (1996 Code, § 13-210)

NUISANCES

SECTION

- 13-601. Definition of "nuisance."
- 13-602. Duty of maintenance of private property.
- 13-603. Exterior storage of inoperable automobiles prohibited.
- 13-604. Abatement of nuisance by owners.
- 13-605. Abatement by city.
- 13-606. Enforcement.
- 13-607. Violations and penalty.
- 13-601. <u>Definition of "nuisance"</u>." For the purposes of this chapter, the term "nuisance" is defined to mean any condition or use of residential or commercial premises or building exteriors within the corporate limits of the City of Fairview, which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises (except in licensed junkyards) of any of the following, such actions being hereby declared to be nuisances:
 - (1) Lumber, junk, paper, trash or other debris;
- (2) Abandoned, discarded or unused and non-operating objects or equipment, such as furniture, stoves, refrigerators, freezers, cans, or containers; or
- (3) Exterior storage of inoperable vehicles under \S 13-603. (1996 Code, \S 13-301)
- 13-602. <u>Duty of maintenance of private property</u>. No person owning, leasing, occupying or having charge of any residential or commercial premises shall maintain or keep any nuisances thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (1996 Code, § 13-302)

13-603. Exterior storage of inoperable automobiles prohibited.

(1) <u>Definitions</u>. (a) "Dismantling licensed shop." An entity licensed by the State of Tennessee engaged in the business of recovering parts for resale from automobiles and trucks which have been wrecked or otherwise rendered inoperable as transportation vehicles; and/or an entity reducing used automobiles and trucks to a condition capable of salvage for metal scrap or scrap processors.

- (b) "Impound shops." An entity that operates a tow truck in order to transport vehicles impounded by law enforcement officials and that holds said vehicles for owners, adjusters, or other similar persons.
- (c) "Inoperable vehicles." Any motor vehicle which cannot be operated lawfully on a public street or highway within the state for any reason other than the lack of current vehicle registration, or which cannot be moved under its own power.
- (d) "Motor vehicle." Any vehicle which is self-propelled and any device in, upon, or by which any person or property is or may be transported from one (1) location to another, excepting devices moved only by human power.
- (e) "Screened from ordinary public view." In a manner which does not constitute a health hazard, attract children, rodents, or pests, and not visible from any public street or road from private adjacent properties because of a suitable fence, trees, shrubbery, or opaque covering at least eight feet (8') to twelve feet (12') in height. "Suitable fencing" means attractive and well maintained fencing.
- (2) <u>Dismantling licensed shop</u>. A person shall not keep, store, park, maintain or otherwise permit for a period of more than ten (10) days any inoperable vehicle on private property in connection with the business of a licensed dismantler unless screened from ordinary public view.
 - (a) Site plan approval. In all cases where a structure (as defined in the Fairview Zoning Ordinance¹) is to be erected, the person under this subsection (2) shall obtain site plan approval and obtain a proper permit under the guidelines in §§ 3.120 and 9.030 of the Fairview Zoning Ordinance.¹
 - (b) Amortization. Those persons currently operating a licensed dismantling shop shall have a grace period of six (6) months from the day of enactment of Ord. #389 in which to be potentially liable with regards to that person's current place of orientation.
- (3) <u>Impound shop</u>. A person shall not keep, store, park, maintain or otherwise permit for a period of more than thirty (30) days any inoperable vehicle on private property in connection with the business of an impound shop unless screened from ordinary public view.
 - (a) Site plan approval. In all cases where a structure (as defined in the Fairview Zoning Ordinance¹) is to be erected, the person under this subsection (3) shall obtain site plan approval and obtain a proper permit under the guidelines in §§ 3.120 and 9.030 of the Fairview Zoning Ordinance.¹
 - (b) Amortization. Those persons currently operating an impound shop shall have a grace period of six (6) months from the day of

¹The Fairview Zoning Ordinance is of record in the recorder's office.

- enactment of Ord. #389, in which to be potentially liable with regards to that person's current place of operation.
- (4) <u>Individual residences and businesses</u>. Individuals or businesses other than dismantling licensed shops or impound shops shall not keep, store, park, maintain or otherwise permit two (2) or more inoperable, unlicensed vehicles. (1996 Code, § 13-303)
- 13-604. Abatement of nuisance by owners. The owners, tenants, lessees and/or occupants of any lot within the corporate limits of this city upon which such storage is made, and also the owners and/or lessees of said personalty involved in said storage (all of whom are hereinafter referred to collectively as owners) shall jointly and severally abate said nuisance by the prompt removal of said personalty into completely enclosed buildings authorized to be used for such storage purposes if within the corporate limits of this city, or otherwise to remove it to a location without said corporate limits. (1996 Code, § 13-304)
- 13-605. <u>Abatement by city</u>. Whenever said owners fail to abate said nuisance, then the city shall remove the said personalty to a location of its selection, the expenses therefor to be billed to said owners, jointly and severally, said bill to be recoverable in a suit at law.

When said personalty has been removed and placed in storage by the city, as provided for herein, said personalty shall be sold by the city after the lapse of such time as is provided by law. If the proceeds of such sale are insufficient to pay the costs of abatement, said owner shall be liable to the city for the balance of the costs, jointly and severally, to be recoverable in a suit at law. If the proceeds are in excess of costs, the balance shall be paid to the said owners or deposited with the city recorder for their use. (1996 Code, § 13-305)

- 13-606. Enforcement. Enforcement of this chapter may be accomplished by the city in any manner authorized by law, and in addition, any person who by reason of another's violation of any provision of this chapter suffers special damage to himself different from that suffered by other property owners throughout the city generally, may bring an action to enjoin or otherwise abate an existing violation. (1996 Code, § 13-306)
- 13-607. <u>Violations and penalty</u>. Any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor, and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist. (1996 Code, § 13-307)

TREE PLANTING AND PROTECTION

SECTION

- 13-701. Title.
- 13-702. Purpose, intent, and definitions.
- 13-703. Establishment of a parks and landscape board.
- 13-704. Duties of the parks and landscape board.
- 13-705. Community tree plan.
- 13-706. Trees on private property.
- 13-707. Tree protection plan and maintenance.
- 13-708. Protection from construction, development, and land use changes.
- 13-709. Abuse of public trees.
- 13-710. Establishment of authority and enforcement.
- 13-711. Community tree bank fund.
- **13-701.** <u>Title</u>. This chapter shall be known and may be referred to as the tree ordinance, for the City of Fairview, Tennessee. (Ord. #2024-07, May 2024)
- 13-702. <u>Purpose, intent, and definitions</u>. The purpose of this tree ordinance is to provide a mechanism for the management of trees and woody vegetation in the City of Fairview, Tennessee. Since adoption of an ordinance is one of the requirements for Tree City USA recognition, the City of Fairview, Tennessee, hereby adopts this ordinance in order to establish guidelines for tree planting, cutting and care in the City of Fairview, Tennessee.

For the purpose of this chapter, the following terms, phases, words, and their derivations shall have the meaning given herein.

- (l) City forester a city employee responsible for the city's tree program. He or she also may be titled urban forester, city arborist, municipal forester or tree warden.
- (2) Crown spread the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.
- (3) Line clearance removal of limbs and branches growing within a set distance of electrical distribution lines.
- (4) Tree a woody plant with a single trunk or multiple trunks capable of growing to a height of fifteen feet (15') or more.
- (5) Shrub a woody plant with a multiple stem capable of growing to a height of up to fifteen feet (15').
 - (6) Small tree a tree that grows up to twenty five feet (25') in height.
- (7) Medium tree a tree that grows between twenty five and forty five feet (25' and 45') in height.
- (8) Large tree a tree that grows greater than forty five feet (45') in height.

- (9) Public tree a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals and other areas to which the public has free access.
- (10) Private tree a tree growing in an area owned by a private individual, business or commercial establishment, company, industry, private institution or other area not owned by government entities.
- (11) Street tree a tree growing within a public right of way along a street, in a median or in a similar area in which the public right of way borders areas owned by private individuals.
- (12) Public utility that section of local government in charge of electrical, water, sewer, natural gas, telephone or cable television distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.
- (13) Private utility an entity similar to above that is a private for-profit corporation.
- (14) Pruning selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.
- (15) Topping arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.
- (16) Tree density factor a number derived from the combination of the density of trees remaining on a site and the density of additional trees to be planted. (Ord. #2024-07, May 2024)
- 13-703. <u>Establishment of a parks and landscape board</u>. (1) There is hereby created a Parks and Landscape Board for the City of Fairview, Tennessee.
- (1) The parks and landscape board shall consist of nine (9) members who are citizens and residents of the city. Members shall be appointed and approved by the board of commissioners.
 - (a) The board will be composed of eight (8) qualified citizens and one (1) sitting city commissioner for a total of nine (9) members.
 - (b) The parks and landscape board will endeavor to include representatives from:
 - (i) The Friends of Bowie Park
 - (ii) The Fairview Historical Commission
 - (iii) American Legion Post 248
 - (2) Term of office. (a) Members shall serve three (3) year terms, except the first board, which will have three (3) members appointed for three (3) years, three (3) members appointed for two (2) years, and two (2) members appointed for one (1) year. Members may serve successive terms. Vacancies are filled by appointment of the governing body, until the end of the term.
 - (b) Sitting city commissioner will be appointed annually by governing body.
 - (3) <u>Compensation</u>. All members shall serve without pay.

- (4) <u>Operation</u>. (a) The board shall pass its own bylaws, choose its own officers, make its own administrative rules and regulations, and keep record of its proceedings. Copies of the minutes shall be available to the board of commissioners after each parks and landscape meeting.
- (b) Meetings. The board shall meet a minimum of four times each year. All meetings shall be open to the public. The board chair may schedule additional meetings as needed.
- (c) A majority of the members shall constitute a quorum for transaction of business.
- (d) A member of the city parks department will attend parks and landscape meetings as a liaison, for informational purposes only. (Ord. #2024-07, May 2024)
- **13-704.** Duties of the parks and landscape board. The duties of the parks and landscape board shall include, but are not limited to the following:
 - (1) Submit and maintain tree city accreditation annually;
 - (2) Coordinate and promote Arbor Day activities;
- (3) Review and update a five (5) year plan to plant and maintain trees on city property;
 - (4) Support public awareness and education programs related to trees;
 - (5) Review city department concerns related to tree care;
- (6) Submit an annual report of its activities to the board of commissioners;
- (7) Recommend a list of trees specified for planting on city property and a list of prohibited species;
- (8) Recommend to the board of commissioners approval or denial of all departmental requests to expend funds from the tree bank fund;
- (9) Review and assess City of Fairview, Tennessee parks master plan, including policy action recommendations. Discuss and recommend to the board of commissioners, how to implement the recommended policy actions. To include, but not limited to, general policy actions, facility actions, programming recommendations, and operations and maintenance recommendations;
- (10) Serve as citizen advisory board to the governing body in regard to maintenance, tree planting in public property, and special projects in the City of Fairview parks system; and
- (11) Other duties that may be assigned by the board of commissioners. (Ord. #2024-07, May 2024)
- 13-705. <u>Community tree plan</u>. The parks and landscape board shall have the authority to formulate a community tree plan with the advice of consultants, city, state, and federal agencies, public hearings, and approval of the commissioners.
- (1) Tree planting shall be undertaken by the City of Fairview on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of

the planting function shall be under the enforcement of the City of Fairview Zoning Ordinance, Design Review Manual, or Subdivision Regulations.

- (2) Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The parks and landscape board will provide information about species, planting techniques, and placement guidelines when requested by residents.
- (3) All trees in public areas capable of reaching a mature height of more than thirty feet (30') shall be at least one and one-quarter inch (1-1/4") diameter (at six inches (6") height) and eight to ten feet (8' to 10') tall at time of planting. Small maturing trees, between fifteen feet (15') and thirty feet (30') at maturity, shall be five feet to six feet (5'-6') tall at planting.
- (4) Trees to be planted shall be free of insects, diseases, and mechanical injuries and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.
- (5) Large trees capable of achieving more than forty five feet (45') in height should be spaced at least forty feet (40') apart. Medium trees capable of achieving thirty to forty five feet (30' to 45') in height should be spaced thirty feet (30') apart. Small trees capable of achieving fifteen to thirty feet (15'-30') in height should be spaced at twenty foot (20') intervals. Exceptions may be granted by the parks and landscape board when a valid landscape plan is followed or when larger or smaller spacings are needed to achieve a desired effect.
- (6) Only small trees are permitted to be planted within ten feet (10') of utility lines. In street plantings, no tree may be planted closer than ten feet (10') from a fire hydrant, utility pole or streetlight, fifteen feet (15') from a driveway or street intersection, or thirty feet (30') from a street or street intersections. When planting between sidewalks and curbs, five feet (5') between curb and sidewalk is the minimum distance required for small trees, eight feet (8') for medium trees, and ten feet (10') for large trees.
- (7) Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least twelve inches (12") larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously. Backfill should be the same material that was removed from the hole, with no additives except low nitrogen fertilizer, which may be added if the parks and landscape board deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing affected by the auger. Trees may be guyed in windy areas or in other areas where support is determined necessary by the parks and landscape board. All guy wires shall be removed within eighteen (18 months).
- (8) The City of Fairview, Tennessee, has an approved tree species list, including a suggested shrub list. The parks and landscape board will be tasked with reviewing and updating as needed/required. City staff will be tasked with enforcement and inspection to verify that tree species list is being followed. (Ord. #2024-07, May 2024)

- 13-706. Trees on private property. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct views of any street or alley intersection. It shall be the duty of any person owning or occupying real property, bordering on any street, park, or other public land, on which there may be trees that are diseased, or insect infested, to remove, spray or treat such trees in such manner that they will not infect or damage nearby public vegetation or cause harm to the community or citizens therein. The parks and landscape board may order trees on private land that cause obstruction, represent an insect or disease problem, or otherwise present a danger to public health or safety, to be pruned, removed, or treated, at owner's expense. (Ord. #2024-07, May 2024)
- 13-707. <u>Tree protection plan and maintenance</u>. (1) <u>Standards</u>. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (2) <u>Planting distances</u>. The director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten feet (10') of a fire hydrant.
- (3) The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be precut to prevent excessive peeling of the bark, followed by cutting the remaining stub.
- (4) Fertilization of trees will be accomplished when the parks and landscape board determines a tree is deficient in nutrients. Determination is made by leaf color or size, twig growth, soil test or other diagnostic methods. Fertilizer will be applied on the soil surface at the appropriate time of year.
- (5) The parks and landscape board may give notice to owners of private infested trees and encourage said private owners to effect treatment of affected trees growing on their property.
- (6) Tree topping of all public trees is prohibited, and topping of private trees is strongly discouraged. The parks and landscape board shall promote the use of proper pruning procedures.
- (7) The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- (8) Only trees listed as ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire. (Ord. #2024-07, May 2024)

- 13-708. Protection from construction, development, and land use changes. The City of Fairview, Tennessee maintains that it is in the best interest of all concerned to save as many existing trees as practical. In this interest, as it pertains to commercial and residential development, the City of Fairview may adopt regulations requiring developers and builders to create tree impact plans prior to removing any tree from project sites. Regulations adopted by the city may further require minimum tree densities for different classes or types of developments, and developers/builders may be required to plant trees to meet such density requirements. (Ord. #2024-07, May 2024)
- 13-709. <u>Abuse of public trees</u>. No person shall intentionally damage, cut, carve, transplant, or remove any public tree, attach any rope, wire nails, advertisements, posters, or other contrivance to any public tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree. (Ord. #2024-07, May 2024)
- **13-710.** Establishment of authority and enforcement. (1) The city planning and engineering department, while working with the public works department, shall administer the rules governing the planting, maintenance, and removal of trees on the street or other public sites in the city.
- (2) If and when available, a city arborist or city forester may fulfill the role of the staff governance of planting, maintenance, and removal of trees on the street or other public sites in the city.
- (3) The city planning and engineering department shall communicate with the parks and landscape board as needed in review of tree protection, planting, and maintenance.
- (4) If and when available, a city arborist or city forester may fulfill the role of the staff communications with the parks and landscape board.
- (5) No person shall hinder, prevent, delay, or interfere with any professional city staff acting on behalf of city in the forestry official capacity. Including, but not limited to, city engineer, city planner, city arborist, city forester.
- (6) Any decision rendered on behalf of the City of Fairview professional staff that pertains to these requirements, may be appealed to the board of commissioners for consideration. (Ord. #2024-07, May 2024)
- 13-711. <u>Community tree bank fund</u>. (1) There is hereby created a City of Fairview, Tennessee tree bank account. The purpose of the City of Fairview, Tennessee tree bank account is to designate a specific, separate city budget account line item, which shall contain the City of Fairview tree bank account funds. Said funds in this account are to be used solely and entirely for the planting and advancement of landscaping on publicly owned property and or easements of the City of Fairview, Williamson County, State of Tennessee

located within the corporate boundaries of the City of Fairview, Tennessee and for no other purpose.

- (2) The collection of said tree bank funds is established and defined in the City of Fairview, Tennessee governing documents, such as the zoning ordinance, subdivision regulations, design review manual, or storm water ordinance.
- (3) The parks and landscape board may review or make recommendations on potential projects to be funded by these funds. However, the board of commissioners is the only body that can approve the spending of any funds from the tree bank account. (Ord. #2024-07, May 2024)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

- 1. MUNICIPAL PLANNING COMMISSION.
- 2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Removal for cause.
- 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 nine (9) members; two (2) of these shall be the mayor or a person designated by the mayor, and another commissioner selected by the board of commissioners; the other seven (7) members shall be appointed by the board of commissioners. All members of the planning commission shall serve as such with their compensation to be set by resolution of the board of commissioners. Except for the initial appointments, the terms of the seven (7) members appointed by the board of commissioners shall be for three (3) years each. The seven (7) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) years respectively so that the terms of members expire each year. The terms of the mayor and the commissioner selected by the board of commissioners shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the board of commissioners, which shall also have the authority to remove any appointive member at its will and pleasure. (Ord. #2017-06, April 2017)
- **14-102.** <u>Organization, powers, duties, etc</u>. 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. (1996 Code, § 14-102)
- **14-103.** <u>Removal for cause</u>. (1) Any member of the planning commission, the board of zoning appeals or the board of adjustment and review, whose term is not expired, may be removed from office by the Fairview City

Commission and a replacement for the unexpired term may be appointed, upon two (2) successive absences by the member from regularly scheduled or specially called meetings or is absent from twenty-five percent (25%) of any regularly scheduled or specially called meetings in a calendar year.

- (2) Additionally, any member of the planning commission, the board of zoning appeals or the board of adjustment may be removed from office by the Fairview City Commission and a replacement for the unexpired term may be appointed for any member who fails to obtain at least the minimum number of hours of training for the said member in any calendar year as required by state statute or municipal ordinance or fails to file with the State of Tennessee the annual ethics statement required by the state ethics commission.
- (3) All members of the planning commission appointed by the Fairview City Commission shall obtain at least six (6) hours of approved training for planning commission members each calendar year. It shall be the responsibility of such members to report and document their training hours to the appropriate City of Fairview, Tennessee official upon completion of the training session(s). (Ord. #2017-06, April 2017)

ZONING ORDINANCE

SECTION

- 14-201. Land use to be governed by zoning ordinance.
- 14-202. Fees to be charged to defray costs of administering zoning ordinance.
- 14-203. Schedule of fees.
- 14-204. Professional consultant review fee deposits.
- 14-205. Violations and penalty.
- **14-201.** Land use to be governed by zoning ordinance. Land use within the City of Fairview shall be governed by Ord. #2019-01, titled "Zoning Ordinance, Fairview, Tennessee," and any amendments thereto. (1996 Code, § 14-201, modified)
- 14-202. <u>Fees to be charged to defray costs of administering zoning</u> <u>ordinance</u>. The following fee schedules are established to partially defray the processing and administrative costs associated with each type of application required in the zoning ordinance. All fees are to be paid at the time of filing. Fees shall be waived for the following:
- (1) Applications initiated by any federal or state agency or any department of the City of Fairview or the County of Williamson; and
- (2) Any changes in zoning initiated by the planning commission and board of commissioners to implement the general plan. (1996 Code, § 14-203)

14-203. Schedule of fees. Development review fees are as follows:

- (1) The schedule of fees adopted shall apply to all developments within the City of Fairview, Tennessee whether residential or non-residential, whether planned residential or non-residential regardless of whether they are designated as Planned Unit Developments (PUDs) or non-Planned Unit Developments (PUDs). This schedule of fees shall be applicable to all developments within the City of Fairview, Tennessee corporate boundaries which requires a development review.
- (2) The schedule of fees for all development reviews shall be enacted by the Board of Commissioners of the City of Fairview, Tennessee by resolution and shall be amended from time to time as required by the Board of Commissioners of the City of Fairview, Tennessee by resolution. (Ord. #907, Dec. 2015)

¹The Zoning Ordinance, Fairview, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

- 14-204. <u>Professional consultant review fee deposits</u>. (1) Each applicant who files a residential subdivision or non-residential/commercial Planned Unit Development (PUD) or non-planned residential/commercial plat shall deposit with the city a sum of money to be utilized for review by professional consultants. Any sums not actually utilized by the consultants may be returned to the applicant when the entire review process is completed.
- (2) The fee schedule for the consultant review deposit(s) shall be designated by the Board of Commissioners of the City of Fairview, Tennessee and shall be amended from time to time by resolution of the Board of Commissioners of the City of Fairview, Tennessee.
- (3) The schedule for professional consultant review fee deposits adopted shall apply to all developments within the City of Fairview, Tennessee whether residential or non-residential, whether planned residential or non-residential regardless of whether they are designated as Planned Unit Developments (PUDs) or non-Planned Unit Developments (PUDs). This schedule for professional consultant review fee deposits shall be applicable to all developments within the City of Fairview, Tennessee corporate boundaries which requires a professional consultant. (Ord. #908, Dec. 2015)
- 14-205. <u>Violations and penalty</u>. Violations of the zoning ordinance shall subject the offender to a penalty of up to five hundred dollars (\$500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1996 Code, § 14-202)

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.

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

Under Tennessee Code Annotated, § 55-10-307(b), 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 where death or injury occurs, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

¹Municipal code reference

²State law references

- 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. Passing.
- 15-119. Damaging pavements.
- 15-120. Motorcycles, motor-driven cycles, motorized bicycles, bicycles, etc.
- 15-121. Gross vehicular weight limits on vehicles using city streets.
- 15-122. Careless driving.
- 15-123. Limiting access to public streets across and from public and private property.
- 15-124. Delivery of vehicle to unlicensed driver, etc.
- 15-125. Adoption of state traffic statutes.
- **15-101.** <u>Motor vehicle requirements</u>. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with a properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9. (1996 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. (1996 Code, § 15-102)
- **15-103.** <u>One-way streets</u>. 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. (1996 Code, § 15-105)
- **15-104.** <u>Unlaned streets</u>. (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 city for one-way traffic.
- (2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1996 Code, § 15-106)
- **15-105.** <u>Laned streets</u>. 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. (1996 Code, § 15-107)

- **15-106.** Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, 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. (1996 Code, § 15-108)
- **15-107.** <u>Miscellaneous traffic control signs, etc</u>. ¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-108. General requirements for traffic control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, and shall be uniform as to type and location throughout the city.

15-109. <u>Unauthorized traffic control signs, etc.</u> 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

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

¹Municipal code references

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*.

vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal. (1996 Code, § 15-111)

- 15-110. <u>Presumption with respect to traffic control signs, etc.</u> 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. (1996 Code, § 15-112)
- 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. (1996 Code, § 15-113)
- 15-112. <u>Driving through funerals or other processions</u>. 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. (1996 Code, § 15-114)
- **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. (1996 Code, § 15-115)
- **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, to persons riding in the load-carrying space of trucks, nor to persons participating in a city sponsored parade but must abide by *Tennessee Code Annotated* § 55-8-189. (1996 Code, § 15-116, modified)
- 15-115. <u>Backing vehicles</u>. 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. (1996 Code, § 15-117)

- 15-116. <u>Projections from the rear of vehicles</u>. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1996 Code, § 15-118)
- **15-117.** <u>Causing unnecessary noise</u>. 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. (1996 Code, § 15-119)
- **15-118.** Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

15-119. <u>Damaging pavements</u>. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1996 Code, § 15-122)

- 15-120. <u>Motorcycles, motor-driven cycles, motorized bicycles, bicycles, etc.</u> (1) <u>Definitions</u>. 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 (1,500) pounds, 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 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 cubic centimeters (50cc) 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, motorcycle, motor-driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor-driven cycles, or motorized bicycles.
- (3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.
- (4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.
- (6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.
 - (7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

- (i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;
- (ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 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 Memorial Foundation, Inc.
- (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.
- 15-121. <u>Gross vehicular weight limits on vehicles using city streets</u>. It shall be unlawful for any person to operate a vehicle upon a street in the municipal city limits of Fairview, Tennessee, with a gross vehicular weight in excess of posted weight limit signs upon that street. (1996 Code, § 15-124)

15-122. <u>Careless driving</u>. Every person operating a vehicle upon the streets within the City of Fairview, or upon any private road or driveway or parking area, shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic and use of these streets and private areas, and all other attendant circumstances, so as not to endanger the life, limb or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section. (1996 Code, § 15-125)

15-123. <u>Limiting access to public streets across and from public and private property</u>. When the property has been duly posted with signs in accordance with the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, published by the U.S. Department of Transportation (reference in municipal code § 15-110), with the words "no thru traffic," no person shall operate a motor driven or non-motor driven vehicle in a manner that crosses the public or private property from one (1) public street to another public street.

Signs for public property shall be the property and responsibility of the City of Fairview, Tennessee. Signs for private property shall be the property and responsibility of the private property owner.

Notwithstanding any language in this section to the contrary, this section shall not apply to any vehicle owned and operated by the city, county, state or federal governments when the operator is crossing the property restricted by this section in performance or furtherance of their official capacity of performing their respective job tasks. Further, the owner of the private property is exempt from the application of this section; provided that their exit from one (1) public street across their property and entrance to the second public street from their property is in accordance with applicable city ordinances and state statutes.

Violators of this section shall be subject to the provisions of § 15-707, Violations and penalty. (1996 Code, § 15-126)

15-124. Delivery of vehicle to unlicensed driver, etc.

- (1) <u>Definitions</u>. (a) "Adult" means any person eighteen (18) years of age or older.
- (b) "Automobile" means 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) "Driver's license" means a motor vehicle operator's license or chauffeur's license issued by the State of Tennessee.

- (e) "Juvenile" means a person less than eighteen (18) 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 operator's or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Fairview unless such person has a valid motor vehicle operator's or chauffeur's license as issued by the Department of Safety of the State of Tennessee.
- (3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.
- **15-125.** Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city 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 city adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

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.** <u>Authorized emergency vehicles defined</u>. 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. (1996 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; or 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. (1996 Code, § 15-202)

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

¹Municipal code reference

- **15-203.** Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1996 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 firefighter or police officer. (1996 Code, § 15-204)

SPEED LIMITS

SECTION

15-301. Maximum speed limits.

15-302. In school zones.

- **15-301.** <u>Maximum speed limits</u>. It shall be unlawful for any person to operate or drive a motor vehicle upon any public street, road or highway within the corporate limits of the City of Fairview at a rate of speed in excess of twenty-five (25) miles per hour, except in locations where other speed limits have been designated and approved by numbered resolution of the City of Fairview Board of Commissioners and such speed limits have been posted. (Ord. #2017-27, Nov. 2017)
- **15-302.** <u>In school zones</u>. (1) There shall be two (2) separate school zones within the City of Fairview. School Zone A shall be:
 - (a) Along State Highway 100 between a point three hundred feet (300') southwest of the centerline of King Road and a point three hundred feet (300') northeast of the centerline of Cumberland Drive;
 - (b) Along King Road between State Highway 100 and a point three hundred feet (300') east of the center point of Snow Mangrum Road;
 - (c) Along Old Franklin Road between State Highway 100 and a point one hundred feet (100') west of the centerline of Bethshears Road Northwest; or
 - (d) Along Cumberland Drive between State Highway 100 and a point seven hundred fifty feet (750') east of State Highway 100.
- (2) The school zone times for School Zone A shall be between the times of 7:15 A.M. and 9:15 A.M. and between the times of 2:15 P.M. and 4:15 P.M. on days when local public schools are in session for any period of time. It shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of twenty-five (25) miles per hour at and/or within the locations specified.
- (3) School Zone B shall be along State Highway 96 between a point three hundred feet (300') northeast and a point three hundred feet (300') southwest of the centerline of Tiger Trail.
- (4) The school zone times for School Zone B shall be between the times of 8:05 A.M. and 9:20 A.M. and between the times of 3:30 P.M. and 4:15 P.M. on days when local public schools are in session for any period of time. It shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of twenty-five (25) miles per hour at and/or within the locations specified. (Ord. #2020-18, Sept. 2020)

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. (1996 Code, § 15-401)
- **15-402.** <u>Right turns</u>. 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. (1996 Code, § 15-402)
- 15-403. <u>Left turns on two-way roadways</u>. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerline of the two (2) roadways. (1996 Code, § 15-403)
- 15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1996 Code, § 15-404)
 - **15-405.** <u>U-turns</u>. U-turns are prohibited. (1996 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At "stop" signs.
- 15-504. At "yield" signs.
- 15-505. At traffic control signals generally.
- 15-506. At flashing traffic control signals.
- 15-507. Stops to be signaled.
- **15-501.** When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto 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. (1996 Code, § 15-502)
- 15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (1996 Code, § 15-503)
- **15-503.** 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. (1996 Code, § 15-504)
- **15-504.** 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. (1996 Code, § 15-505)
- **15-505.** 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.
- (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.
- (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.
- (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. (1996 Code, § 15-506)
- **15-506.** At flashing traffic control signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city, it shall require obedience by vehicular traffic as follows:
- (1) <u>Flashing red (stop signal)</u>. When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) <u>Flashing yellow (caution signal)</u>. When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1996 Code, § 15-507)

15-507. 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, except in an emergency. (1996 Code, § 15-508)

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 (1) space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Permits required prior to obstructing traffic; proof of financial responsibility required.

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

Except as hereinafter provided, every vehicle parked upon a street within the City of Fairview 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 city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases, the left wheels shall be required to be within eighteen 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. (1996 Code, § 15-601)

- **15-602.** <u>Angle parking</u>. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1996 Code, § 15-602)
- **15-603.** Occupancy of more than one (1) 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. (1996 Code, § 15-603)

- **15-604.** Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the city, nor:
 - (1) On a sidewalk;
 - (2) In front of a public or private driveway;
 - (3) Within an intersection or within fifteen feet (15') thereof;
 - (4) Within fifteen feet (15') of a fire hydrant;
 - (5) Within a pedestrian crosswalk;
 - (6) Within 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 city; or
- (12) Along the sides of and within any cul-de-sac located within the corporate boundaries of the City of Fairview, Tennessee.
 - (a) Cul-de-sac is defined as a minor street having only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement; definition includes: dead-end, turn-around, or turnabout.
 - (b) A cul-de-sac begins at the point that the curb, sidewalk or roadway surface breaks away from the line of the roadway and begins the curve or radius of the cul-de-sac. (1996 Code, § 15-604)
- **15-605.** <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1996 Code, § 15-605)
- **15-606.** <u>Presumption with respect to illegal parking</u>. 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. (1996 Code, § 15-606)
- 15-607. <u>Permits required prior to obstructing traffic; proof of financial responsibility required</u>. It shall be unlawful for any person or entity to obstruct traffic on any city street prior to obtaining a permit from the City of Fairview. Any person, or entity, including, but not limited to, utilities,

or private contractors for utilities, who are required to perform work on city streets, or near city streets in a manner that will cause them to obstruct traffic, must apply for and obtain a permit prior to commencing such work.

Upon such an application for a permit being filed, and prior to such a permit being issued, the chief of police shall determine whether it will be necessary to have a person direct traffic. If it is determined that traffic direction is required, the chief of police may prescribe the persons and equipment necessary to direct traffic. The applicant will be responsible for the costs of directing traffic, including the compensation of the person or persons directing the traffic, and a reasonable cost of any equipment necessary to direct the traffic.

In addition, prior to any permit being issued, the applicant must provide the city with proof of liability insurance in a sum not less than one million dollars (\$1,000,000.00) to compensate any persons who may be injured in an accident resulting from obstruction of the traffic, and indemnifying the City of Fairview for any such injury. (1996 Code, § 15-607, modified)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Failure to obey citation.
- 15-702. Illegal parking.
- 15-703. Impoundment of vehicles.
- 15-704. Disposal of abandoned motor vehicles.
- 15-705. Violations and penalty.
- **15-701.** <u>Failure to obey citation</u>. 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. (1996 Code, § 15-702)
- 15-702. <u>Illegal parking</u>. 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. (1996 Code, § 15-703)
- 15-703. <u>Impoundment of vehicles</u>. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded 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. (1996 Code, § 15-704, modified)
- **15-704.** 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. (1996 Code, § 15-705)
- **15-705.** <u>Violations and penalty</u>. Any violation of this title shall be a civil offense punishable as follows:
- (1) <u>Traffic citations</u>. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For other parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00); provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be five dollars (\$5.00). (1996 Code, § 15-707, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS AND CUTS.
- 3. MAJOR STREET PLAN.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Official system of street names established.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. 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. (1973 Code, § 12-101)
- **16-102.** <u>Trees projecting over streets, etc., regulated</u>. 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 (14) feet or over any sidewalk at a height of less than eight (8) feet. (1973 Code, § 12-102)

Related motor vehicle and traffic regulations: title 15.

¹Municipal code reference

- 16-103. <u>Trees, etc., obstructing view at intersections prohibited</u>. 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. (1973 Code, § 12-103)
- **16-104.** <u>Projecting signs and awnings, etc., restricted</u>. 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. (1973 Code, § 12-104)
- 16-105. <u>Banners and signs across streets and alleys restricted</u>. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of commissioners after a finding that no hazard will be created by such banner or sign. (1973 Code, § 12-105)
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1973 Code, § 12-106)
- 16-107. <u>Littering streets, alleys, or sidewalks prohibited</u>. 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. (1973 Code, § 12-107)
- **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. (1973 Code, § 12-108)
- **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. (1973 Code, § 12-109)

Building code: title 12, chapter 1.

¹Municipal code reference

- 16-110. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1973 Code, § 12-110)
- **16-111.** <u>Official system of street names established</u>. There is hereby established an official system of street names in the City of Fairview as shown on the map entitled Street Numbering Map, date May 11, 1978, as produced by the municipal planning commission, a copy of which is attached to and made part of this ordinance as recorded in the minute book.

Names of streets in the City of Fairview shall remain as shown on said map unless officially changed by specific ordinance passed subsequent to this date.¹

No new streets shall be accepted by the city nor municipal improvements made therein until such streets have been named; if they are extensions of existing streets, the existing names shall be continued, and if not extensions, names recorded shall not duplicate or closely approximate street names already assigned. (1973 Code, § 12-111)

- **16-112.** Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1973 Code, § 12-112)
- **16-113.** <u>Fires in streets, etc</u>. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1973 Code, § 12-113)
- **16-114.** <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty of up to one hundred dollars (\$100.00) for each offense.

¹See Ord. #188, #271, #277, and #383 of record in the recorder's office, for amendments.

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Definitions.
- 16-202. Utility district/companies' surety.
- 16-203. Administration.
- 16-204. General policy and construction standards.
- 16-205. Construction permit.
- 16-206. License.
- 16-207. Service line encasement.
- 16-208. Driveway and access.
- **16-201.** <u>Definitions</u>. (1) "City," shall mean the City of Fairview, Tennessee and/or its public works authority.
- (2) "Director," shall mean the city manager, director of public works and/or their designee.
- (3) "Contractor," shall mean anyone licensed by the State of Tennessee to do work which requires installation or installations in the public right-of-way.
- (4) "Emergency," shall mean any event, which may threaten public health or safety, where action is necessary to prevent personal injury, death or the loss or disruption of a private or public utility or service. The burden of proof of the existence of any and all emergency conditions rests with the applicant.
- (5) "Excavation," shall mean any operation in which earth, rock, paving or like material, on, or below the surface of the ground, is moved, displaced, dug, trenched, tunneled or in any similar manner disturbed, except the agricultural tilling of soil or gardening.
- (6) "Applicant," shall mean a person applying for a permit required by this chapter.
- (7) "Permit holder," shall mean a person who has obtained a permit as required by this chapter. An applicant may be any natural or corporate "person," business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a corporation, a limited liability company, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

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

¹State law reference

- (8) "Public right-of-way," shall mean the entire width between property lines of every way and place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic, except for private roads and private ways. The definition shall include the area on, above and below the public right-of-way, dedicated to public use, and any dedicated, but unaccepted street or way. The definition shall also include any publicly owned space or park. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
 - (9) "TDOT," shall mean the Tennessee Department of Transportation.
- (10) "Technical and design standards," shall mean the standards cited herein and adopted by the City of Fairview, Tennessee including the Tennessee Department of Transportation (TDOT) Standards and Specifications for Highways and Bridges, latest edition.
- (11) "Utility," shall mean a public utility, as defined by state, federal or local statutes or ordinance as they exist at the time of this chapter or as they may be hereinafter amended and shall specifically include the non-regulated activities of such a utility.
- (12) "Open-cut excavations," shall mean excavation other than boring, jacking or tunneling. (as added by Ord. #547, July 2003, and amended by Ord. #560, Nov. 2003)
- 16-202. <u>Utility district/companies' surety</u>. Every utility district, authority, company or individual currently having facilities (transmission lines, etc.) within the city's public streets and/or rights-of-way, plus any other such district, authority, company, or individual that may from time to time have occasion to operate within the city's accepted public road system, shall maintain a continuous performance/surety bond to the City of Fairview, Tennessee in a minimum amount of ten thousand dollars (\$10,000.00). The form and content shall be in accordance with this chapter, Attachment "A" performance/surety form required. Attachment "B" is the permit form required. 1 (1973 Code, \$12-201, as renumbered and amended by Ord. #547, July 2003, and amended by Ord. #680, Sept. 2007)
- **16-203.** <u>Administration</u>. (1) The city manager and public works director are the responsible authorities for the enforcement of this chapter.
- (2) An excavation permit is required prior to the commencement of any excavation in the roads, streets and rights-of-way of the City of Fairview, Tennessee. It shall be unlawful for any person, company, or entity to excavate, or to place, deposit or leave upon any street any earth or other material, equipment or structure tending to interfere with the free use of the roads,

¹Attachments "A" and "B" are available in the office of the city recorder.

streets and rights-of-way, unless such person, company or entity shall first have obtained an excavation permit.

- (3) All applications for excavation permits shall be in writing and shall be accompanied by a sketch that clearly details the area to be excavated, the length, width, and depth of the proposed excavation and an estimated number of days to complete the excavation. (Sample excavation permit request letters and sketches shall be provided by the City of Fairview, Tennessee upon request).
- (4) All federal and state and local requirements for safe operation within the right-of-way shall be followed, including, but not limited to, OSHA, TOSHA, Tennessee Code Annotated and the Manual of Uniform Traffic Control Devices.
- (5) The permit holder shall hold harmless the City of Fairview, Tennessee and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of any permits issued under this chapter.
- (6) Only contractors and public utilities with a valid permit are permitted to work in the roads, streets and public rights-of-way of the City of Fairview, Tennessee.
 - (7) <u>Environmental considerations</u>. (a) In the course of any work in the roads, streets or rights-of-way, of the City of Fairview, Tennessee, the permit holder shall not remove any trees or shrubs which exist in the area without first obtaining the approval of the city manager or the director of public works.
 - (b) Consideration shall be given by all holders relative to elimination of erosion and sedimentation control for all excavations in the streets, roads and rights-of-way of the City of Fairview, Tennessee.
- (8) The city manager or the public works director or their designee shall make such inspections as are necessary in the enforcement of this chapter.
- (9) Permit holders shall maintain accurate drawings, including plans, and profiles showing the location and character of all underground structures including abandoned installations proximate to their work.
- (10) <u>Penalty</u>. Any person, firm, corporation or entity or any type who shall violate any provision of this chapter shall be subject to a fine in an amount established by order of the board of commissioners. Each day of continued violation, and every violation of a provision of this chapter shall constitute a new and separate offense.
- (11) If any work performed under any permit issued under this chapter is not completed in compliance with the terms of this chapter, the City of Fairview, Tennessee, may cause such work to be repaired and deduct the costs of such work from the performance guarantee or surety. In the event such repair was undertaken without a permit, the City of Fairview, Tennessee shall prepare a bill for the cost of the repair, plus an additional amount of fifty (50) percent to be paid by the person doing the work. The City of Fairview, Tennessee shall issue no further permits to any person or entity who has performed such work

until the City of Fairview, Tennessee receives payment from the person or entity for the repair work.

- (12) Open-cut excavations beneath paved roads or streets for the installation of utility pipelines, cables or conduits is prohibited except when:
 - (a) The proposed pipeline, cable or conduit has a nominal diameter greater than twelve (12) inches.
 - (b) A connection is required to an existing pipeline, cable or conduit within the limits of the road or street pavement.
 - (c) In the opinion of the public works director, the location of other existing infrastructure makes boring, jacking or tunneling not safe or not practical.
 - (d) An emergency repair is required.
 - (e) When approved by the board of commissioners.
- (13) Working hours. Except for emergency repairs or as approved by the director, working hours shall be between the hours of 8:30 A.M. and 3:30 P.M. prevailing time. Starting or warming up equipment prior to 8:00 A.M. is prohibited. Work on the weekend or legal holidays is prohibited unless specifically authorized by the director. (as added by Ord. #547, July 2003, and amended by Ord. #560, Nov. 2003)

16-204. General policy and construction standards. (1) Protection and restoration of highway items and protection of the traveling public.

(a) <u>Maintenance</u>. The permit holder shall be responsible for maintaining the excavated/construction area in a safe, passable condition satisfactory to the City of Fairview, Tennessee until the project is accepted by the city. A temporary patch in accordance with the City of Fairview Street Standards shall be placed on all trenches that cannot be permanently patched within 12 hours of initial disturbance. Permanent restoration of the pavement structure in accordance with the City of Fairview Street Standards shall be made within 15 days of the completion of the project unless the time for restoration is specifically extended by the City of Fairview, Tennessee for good cause shown.

One lane of traffic shall be maintained at all times, unless traffic has been detoured to a route with prior approval of the City of Fairview, Tennessee. All traffic control measures shall comply with the current version of the Manual on Uniform Traffic Control Devices (MUTCD). The permit holder shall provide traffic control officers, barricades, lights, warning signs and other devices as required to safeguard traffic and pedestrians while the work is in progress.

Two-way traffic shall be maintained during all non-working hours, unless approved by the city manager, the public works director or their designated replacement of the City of Fairview, Tennessee. In the event that two-way traffic cannot be maintained during these hours, the permit

holder shall install and maintain control of traffic, as specified in the MUTCD until a permanent surfacing has been installed.

All equipment, and materials shall be removed and located off the highway during non-working hours.

A highway, street, road or right-of-way excavation permit does not authorize parking or servicing vehicles within such highway, street, road or right-of-way.

(b) Removal and protection of utilities. The permit holder shall not interfere with any existing utility other than their own facilities without the written consent of the utility company, person or entity owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the City of Fairview, Tennessee shall be moved to accommodate the permit holder unless the cost of such work be born by the permit holder. The cost of moving privately owned utilities shall be borne by the permit holder unless he makes other arrangements with the utility owner. The permit holder shall support and protect all pipes, conduits poles, wore or other apparatus which may be in any way affected by the excavation work. Such support will be installed after informing the utility owner and seeking his assistance/advice of the proper method to support the utility to being supported. In case any of said pipes, conduits, poles, wire or apparatus should be damaged, they shall be repaired by the utility, company, person or entity owning them and the expense of such repairs shall be charged to the permit holder. The permit holder shall be responsible for any damage done to any public or private property by reason of the damage any water, serer, gas, pipe, electric conduit or cable or any other utility. The permit holder shall inform itself as to the existence and location of all underground utilities and protect the same against damage. Above ground utilities abandoned as a result of relocation or replacement shall be removed in its entirety.

No permit holder shall begin any excavation on any City of Fairview, Tennessee streets, roads, rights-of-way, or any other city property unless and until the permit holder has fully complied with all provisions of the "Underground Utility Damage Prevention Act", Tennessee Code Annotated, § 65-31-102 etc., its subsequent revisions and or replacements.

(c) <u>Protection of adjoining property</u>. The permit holder shall at all times and at his own expense preserve and protect from damage any adjoining property by providing proper protection and taking other measures necessary for the purpose. Where the protection of such property is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permit holder shall obtain a release from the owner of such private property and provide a copy of the release to the City of Fairview, Tennessee. The permit holder shall, at its

own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property resulting or directly and proximately resulting from its failure to properly protect said facilities during the period of excavation.

- (d) Restoration and replacement. The permit holder shall be responsible for permanently restoring or replacing street, roadway and right-of-way items damaged as a consequence of any construction operations in kind, or conforming to current standards as approved by the city manager, city engineer, public works director, or their designee including but not limited to, the following terms:
 - (i) Bituminous pavement (Asphalt);
 - (ii) Portland Cement Concrete Pavement, including that displaced by blasting, undermined, or broken by construction equipment. Concrete pavement under, bituminous pavement shall be replaced with (flow fill) of equal thickness;
 - (iii) Bituminous, concrete and brick sidewalks;
 - (iv) Aggregate base and subbase material under roadways, shoulders, and walks;
 - (v) Curbing, all types;
 - (vi) Gravel surfacing and shoulders;
 - (vii) Slopes, shoulders, and critical infrastructure;
 - (viii) Drainage pipes, structures, and ditches;
 - (ix) Guard rail and fencing;
 - (x) Property and other survey monuments;
 - (xi) Signage, lighting, and traffic control.

The permit holder shall guarantee the restoration/replacement against defects in material and workmanship for a period of one (1) year from the date of acceptance by the City of Fairview, Tennessee, and shall replace any defective work at the written directive of the city manager or public works director of Fairview, Tennessee. Failure to replace any defective work shall be cause for the city manager or public works director to revoke the permit holder's permit and no further excavation permits shall be issued to him until the replacement issue is solved.

- (e) <u>Emergency coordination</u>. In addition to any other requirements of any section of this section, the permit holder shall furnish the City of Fairview city manager, public works director, police department and the fire department with a list of names, addresses, telephone numbers, cell phone numbers of permit holder personnel who may be reached in case of emergency during hours when no work is being performed including weekends and holidays.
- (2) <u>Construction standards</u>. (a) All excavations on paved street/road surfaces shall be precut in a neat straight line with saws. Cutouts of the trench lines must be perpendicular or parallel to the trench line.

Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench. Unstable pavement over cave-ins shall be removed and aggregate bases restored. Jointed or broken pavement within one (1) foot of the restoration edge shall be removed. Prior to permanent surfacing the pavement shall be saw cut an additional twelve (12) feet on each side of the trench walls, milled, and resurfaced in accordance with the City of Fairview Street Standards. Saw cut and repair shall be extended the full lane width for excavations encroaching upon less than one-half (1/2) of the impacted travel lane width. Saw cut and repair shall be extended the full roadway width for excavations encroaching upon more than one-half (1/2) of the impacted travel lane width.

- (b) When multiple openings are located with less than five (5) feet of original pavement remaining between adjacent openings, the permit holder shall neatly cut and remove the area of pavement between these adjacent area and shall patch as one trench.
- (c) All previous sections shall also apply to sidewalks. On concrete sidewalks, all cuts shall be made to the nearest joint or score line on either side of the excavation. All sidewalk restorations shall be in accordance with the requirement of Paragraph (2)(d).
- (d) All backfilling of streets, roadways and rights-of-way of the City of Fairview, Tennessee shall be done in accordance with the City of Fairview Street standards and the following additional specifications:
 - (i) All work must be conducted in strict accordance with the latest regulations of OSHA, TOSHA for excavations, and any other applicable safety regulations.
 - (ii) All work must be protected from freezing during the appropriate season;
 - (iii) Whenever water is found standing in the excavation area, the water shall be removed by pump or other means before backfilling operations can commence.
 - (iv) Backfilling of excavations shall be performed by the permit holder as soon as practicable so that the least possible subsequent settling will occur. Backfill material shall be spread in layers as shown in the City of Fairview Street Standards and compacted to no less than 95% of the maximum dry density of the material as established by ASTM D1557. Debris removed from the excavation will not be allowed as backfill. The permit holder shall notify the City Manager or Public Works Director of Fairview, Tennessee prior to beginning the backfilling operations to allow adequate time for inspection of the filled area(s).
 - (v) All excavated material shall be removed from the job site and disposed by the permit holder, in such a manner that will minimize interference with pedestrian and vehicular traffic. No

material shall be left within the streets, roads or right-of-way of the City of Fairview, Tennessee once the repair and/or installation is complete.

- (e) Temporary resurfacing shall be provided by the permit holder from the time of excavation until final restoration and resurfacing. Temporary resurfacing shall be completed in accordance with the City of Fairview Street Standards. The temporary surface material shall be placed and compacted to provide smooth even surface for the safe passage of pedestrian traffic and safe vehicular travel at the legal posted speed. The permit holder shall maintain the temporary paving for the entire period of time until the permanent restoration shall be made. In appropriate instances the City of Fairview, Tennessee may require the permit holder to top off cold-mix with sand to prevent the cold mix from sticking to the feet of pedestrian traffic.
- (f) Permanent restoration of the pavement structure shall be completed in accordance with the City of Fairview Street Standards.
- (g) All temporary resurfacing shall be maintained for the safety of pedestrian and vehicular traffic until the permanent, restoration is made. The permit holder shall erect and maintain warning signs, barriers, lights, as specified in the current edition of the MUTCD until a permanent surfacing has been installed.
- (3) Excavations in reconstructed or repaved roads. After a road or street of the City of Fairview, Tennessee has been reconstructed or repaved, a excavation permit shall not be granted for five (5) years unless and emergency condition exists or unless the necessity for making such installation could not have been reasonably foreseen at the time of the reconstruction or repaving. This section shall be void unless the City of Fairview shall have given sixty (60) days notice by register or certified mail of the impending work to all public utilities serving the City of Fairview, Tennessee.

Not withstanding the foregoing section the board of commissioners may grant an excavation permit to public utilities or individuals to excavate in a street or roadway of Fairview, Tennessee if the proposed excavator agrees to pay in addition to the excavation permit fee an amount equal to the cost per square foot of street to be excavated for reconstruction and or repaving the street for which the excavation permit is sought. Permits issued under this paragraph require the same restoration procedures as permits issued routinely.

- (a) Regulation of heavy loads. Upon the recommendation of the city manager and approval of the board of commissioners, and after thirty (30) days' notice published three (3) times in a newspaper of general circulation in the community, the City of Fairview, Tennessee, may post gross vehicle weight limits on city road, or street within the city.
- (4) <u>Administration</u>. The City of Fairview will issue excavation permits upon the filing of a proper request for the permits. Each request for an

excavation permit shall be accompanied by proof of insurance in the minimum amounts listed below.

- (a) Each permit holder shall maintain at all times a minimum of one million dollars (\$1,000,000.00) public liability insurance coverage protecting himself, his agents and the City of Fairview, Tennessee from all such claims for damages or injuries and naming the City of Fairview, Tennessee as an additional insured. Evidence of such coverage shall be a condition precedent to the issuance of any permit to excavate and shall be submitted in a form satisfactory to the city manager of the City of Fairview, Tennessee. Coverage shall be maintained throughout the period of work performed under this ordinance and shall not be less than the following amounts:
 - (i) General liability including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operations, contractual, independent contractors, broad form property damage and personal injury. One million dollars (\$1,000,000.00) Bodily Injury and Property Damage Each Occurrence.

One million five hundred thousand dollars (\$1,500,000.00) Bodily Injury and Property Damage Aggregate.

One million dollars (\$1,000,000.00) Personal Injury Aggregate.

- (ii) Automobile liability including any vehicle, hired vehicle and non-owned vehicle one million five hundred thousand (\$1,500,000.00) bodily injury and property damage combined.
- (iii) Workers compensation and employer's liability as required by the State of Tennessee.

An excavation permit, issued to any entity may be revoked after notice and hearing, when the holder of the permit has willfully disobeyed any portion of this article. (as added by Ord. #547, July 2003)

- **16-205.** Construction permit. (1) No person shall alter, cut, or repair any shoulder, pavement, or other improvement of public streets that have been accepted by the City of Fairview unless he holds a valid permit issued in his name for the specific construction cut or repair proposed. Said permit shall be obtained prior to beginning construction, alteration, cut or repair of the road.
- (2) The permit shall require specific conditions considered vital to the protection of the city's property, as well as the interest, welfare, and safety of the general public. Acknowledgment of receipt of a copy of this regulation shall be a part of the permit application. By issuance of this permit, the contractor will be required to conform to this regulation. Once physical work has commenced upon the road, each contractor as recipient of the permit, agrees to perform the work in accordance with the provisions and conditions of the permit and the rules and regulations governing the construction, alteration or cutting of city streets. Inspection by an engineering firm, paid for by the contractor and

hired by the city may be required for extensive construction as a provision of the permit to ensure proper construction. The permit will also require that the city will be notified prior to any backfilling or prior to bedding of any utility.

- (3) Permits for work not being performed for a utility district or other company already having posted surety in accordance with provisions herein, will also require that adequate surety be provided as a requirement for the issuance of the permit. Additional specific surety may also be required from the utility district for major projects that are to be accomplished for an already bonded district, authority, or company if the likelihood exits that damage to city property in excess of ten thousand dollars (\$10,000.00) could occur. Such surety shall be in an amount established by the board of commissioners or its duly authorized representative, and shall be in accordance with the bonding and surety requirements established in the Fairview Subdivision Regulations, and shall be valid for a minimum of one year.
- (4) <u>Construction permit</u>. A two hundred fifty dollar (\$250.00) remitting charge shall be collected for each road cut or road bore. Work being accomplished on the same side of the street as the utility service and not requiring a partial cut or bore or any disturbance of the city street will be exempt from the two hundred fifty dollar (\$250.00) permit fee, but will require an approved permit by the public works director.
- (5) <u>Emergency</u>. In addition to other emergency requirements of this section, in the case of an emergency situation where a permit cannot be obtained in a timely manner because of an unanticipated occurrence such as a break in a utility line, a licensed contractor may perform the emergency repair work provided that:
 - (a) A permit that meets all the requirements of this regulation is applied for no later than the next regular City of Fairview working day; and
 - (b) The utility district or other company for which the work is being accomplished has posted the appropriate bond in accordance with the provisions herein.
- (6) A permit may be denied, suspended or revoked when the city manager has determined that the operation is not being and/or will not be conducted in a manner as prescribed by applicable city regulations. Any violations deemed of a significant nature by the city manager, or unwarranted damages done to the highway, right-way-system, may result in a permit being denied, suspended or revoked. The city manager shall report all such actions to the board of commissioners at their next regularly scheduled meeting.
- (7) Failure to obtain a permit, or obtaining a permit under the emergency provisions when no emergency exits, may also be grounds for revocation of future requests for permits. (1973 Code, § 12-202, as renumbered and amended by Ord. #547, July 2003, and amended by Ord. #679, Sept. 2007)

- 16-206. <u>License</u>. The Department of Commerce and Insurance of the State of Tennessee requires that all persons and companies contracting to perform construction work within the state be qualified and licensed by that department. Requirements for obtaining such a license are determined by the commissioner of the Department of Commerce and Insurance, and may be obtained by contacting the Regulatory Boards Division. All persons and/or the company for which they are employed shall be duly licensed by the Department of Commerce and Insurance, State of Tennessee or other appropriate governmental agency. Proof of currently valid license shall be presented when application is made for a construction permit. (1973 Code, § 12-203, as renumbered by Ord. #547, July 2003, and amended by Ord. #679, Sept. 2007)
- 16-207. Service line encasement. All utility lines installed as full crossings under new roads and right-of-way being platted and constructed as part of a subdivision of property, or existing property, with proposed dedication to the city, shall be encased in a sleeve or conduit using material and installation procedures approved by the city manager. Location of encasement shall be noted on approved construction plans. These and all other service lines shall be installed in accordance with applicable, local, state and federal ordinances, regulations laws and statutes. (1973 Code, § 12-204, as renumbered and amended by Ord. #547, July 2003)
- 16-208. <u>Driveway and access</u>. The location and design of driveways and/or accesses providing vehicular access from arterial, collector, and nonresidential local streets proposed for subdivision of property shall be specified in an access plan submitted to the city engineer for review and recommendation to the planning commission for action. Single lot residential access to local streets shall be approved by the codes department. No curbs or city rights-of-way shall be cut, paved, or otherwise altered until a permit approving the access cut has been secured from the codes department or other agency owning or controlling the street right-of-way.
- (1) Application for proposed culverts shall be submitted (including drainage calculations, size, and construction material to the city engineer for review prior to receiving approval for construction. The city engineer shall approve any and all culverts (relative to size and construction material) to be installed as part of any driveway access.
- (2) A fee of twenty dollars (\$20.00) shall be collected by the codes department for each driveway cut or access.
- (3) This section shall apply to and only to driveways proposed to be installed on existing public streets that have been accepted by and maintained by the City of Fairview, Tennessee. As previously stated, the location and design of driveways and/or accesses providing vehicular access from arterial, collector,

and nonresidential local streets proposed for subdivision of property shall be specified in an access plan submitted to the city engineer for review and recommendation to the planning commission for action. (as added by Ord. #595, Dec. 2004)

CHAPTER 3

MAJOR STREET PLAN

SECTION

- 16-301. Plat required as prerequisite for development of property for residential purposes.
- 16-302. Relation of proposed streets to adjoining street system.
- 16-303. Street widths.
- 16-304. Additional width on existing streets.
- 16-305. Restriction of access.
- 16-306. Street grades.
- 16-307. Horizontal curves.
- 16-308. Vertical curves.
- 16-309. Intersections.
- 16-310. Tangents.
- 16-311. Street jogs.
- 16-312. Dead-end streets.
- 16-313. Private streets and reserve strips.
- 16-314. Street names.
- 16-315. Alleys.
- 16-316. Blocks.
- 16-317. Action of planning commission on plats; appeals.
- 16-318. House numbering on city streets.

16-301. <u>Plat required as prerequisite for development of property</u> for residential purposes. No person or corporation shall sell lots or begin development of property for subdivision or residential purposes without filing a formal preliminary plat of said land or development with the planning commission of the city.

From and after the effective date of this chapter (June 1, 1967), any plat for the development of property for subdivision or residential purposes shall set forth the location and width of all streets and roads which shall be in accordance with the following requirements. (1973 Code, § 12-301)

16-302. Relation of proposed streets to adjoining street system. The proposed street system shall extend existing streets or projects. They shall be extended at a width no less than the required minimum width. (1973 Code, § 12-302)

- **16-303.** <u>Street widths</u>. The minimum width of rights-of-way, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan, shall not be less than as follows:
 - (1) Arterial streets and highways 80 feet

Arterial streets and highways are those to be used primarily for fast or heavy traffic and will be located on the major street plan.

In cases where topography or other physical conditions make a street of the required minimum width impracticable, the planning commission may modify the above requirements. Through proposed neighborhood or local business areas the street widths shall be increased ten (10) feet on each side to provide for movement of vehicles into and out of necessary off-street parking areas without interference with traffic. (1973 Code, § 12-303)

- **16-304.** <u>Additional width on existing streets</u>. Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the above minimum street width requirements.
- (1) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.
- (2) When the subdivision is located on only one side of any existing street, one-half (½) of the required right-of-way, measured from the center line of the existing roadway, shall be provided. (1973 Code, § 12-304)
- **16-305.** Restriction of access. When a tract fronts on an arterial street or highway, the planning commission may require such lots to be provided with frontage on a marginal access street. (1973 Code, § 12-305)
- **16-306.** Street grades. Grades on major streets shall not exceed seven (7) percent. Grades on other streets may exceed seven (7) per cent but not ten (10) per cent. (1973 Code, § 12-306)

- 16-307. <u>Horizontal curves</u>. Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On streets sixty (60) feet or more in width, the centerline radius of curvature shall be not less than three hundred (300) feet; on other streets, not less than one hundred (100) feet. (1973 Code, § 12-307)
- 16-308. <u>Vertical curves</u>. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from the driver's eyes, which are assumed to be four and one-half (4-1/2) feet above the pavement surface, to an object four (4) inches high on the pavement. Profiles of all streets showing natural and finished grades drawn to a scale of not less than one (1) inch equals one hundred (100) feet horizontal, and one (1) inch equals twenty (20) feet vertical, may be required by the planning commission. (1973 Code, § 12-308)
- 16-309. <u>Intersections</u>. Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than sixty (60) degrees. Property line radii at street intersections shall not be less than twenty (20) feet, and where the angle of street intersection is less than seventy-five (75) degrees, the planning commission may require a greater curb radius. Wherever necessary to permit the construction of a curb having a desirable radius without curtailing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded, or otherwise set back sufficiently to permit such construction. (1973 Code, § 12-309)
- **16-310.** <u>**Tangents**</u>. A tangent of at least one hundred (100) feet in length shall be introduced between reverse curves on arterial and collector streets. (1973 Code, § 12-310)
- **16-311.** <u>Street jogs</u>. Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall not be allowed. (1973 Code, § 12-311)
- 16-312. <u>Dead-end streets</u>. (1) Minor terminal streets or courts designed to have one end permanently closed shall be no more than five hundred (500) feet long unless necessitated by topography. They shall be provided at the closed end with a turn-around having an outside roadway diameter of at least eighty (80) feet and a street right-of-way diameter of at least one hundred (100) feet or the planning commission may approve an alternate design.
- (2) Where, in the opinion of the planning commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property. Such dead-end streets

shall be provided with a temporary turn-around having a roadway diameter of at least eighty (80) feet. (1973 Code, § 12-312)

- 16-313. <u>Private streets and reserve strips</u>. There shall be no private streets platted in any subdivision. Every lot in subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets, except where the control of such strips is definitely placed with the community under conditions approved by the planning commission. (1973 Code, § 12-313)
- 16-314. Street names. Proposed streets which are obviously in alignment with others already existing and named, shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, driveway, place, or court. Through its index list of street names on file, the planning commission can assist the subdivider in avoiding duplication. (1973 Code, § 12-314)
- **16-315.** <u>Alleys</u>. Alleys shall be provided to the rear of all lots used for business purposes, and shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the planning commission of the need for alleys. (1973 Code, § 12-315)
- 16-316. <u>Blocks</u>. (1) <u>Length</u>. Blocks shall not be less than 800 feet nor more than 1200 feet in length, except as the planning commission considers necessary to secure efficient use of land or desired features of street pattern. In blocks over eight hundred (800) feet in length, the planning commission may require one (1) or more public cross walks of not less than ten (10) feet in width to extend entirely across the block and at locations deemed necessary.
- (2) <u>Width</u>. Blocks shall be wide enough to allow two (2) rows of lots, except where fronting on major streets or prevented by topographical conditions or size of the property; in which case the planning commission will approve a single row of lots of minimum depth. (1973 Code, § 12-316)
- 16-317. <u>Action of planning commission on plats; appeals</u>. The planning commission of the city shall examine said plat and ascertain if the street requirements comply with the provisions of this chapter and, within a reasonable time following the filing thereof, shall certify to the applicant the approval or disapproval of said plat.

If the planning commission denies approval of any plat and said denial results in undue hardship to any applicant, said applicant shall have the right, within thirty (30) days following the action of the planning commission, to appeal to the Board of Commissioners of the City of Fairview, Tennessee. (1973 Code, § 12-317)

16-318. <u>House numbering on city streets</u>. House numbering on city streets within the City of Fairview shall be in conformity with the street and road numbering plan of Williamson County in order to facilitate the provision of emergency management services. The planning commission shall require compliance with this chapter for all new development within the city. The building inspector of the City of Fairview shall require compliance in previously

TITLE 17

REFUSE, GARBAGE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Storage of refuse, etc.
- 17-104. Disturbing containers.
- 17-105. Collection and/or removal of garbage, refuse and litter.
- 17-106. Disposal of garbage/refuse.
- 17-107. Dumping in streams, sewers, and drains prohibited.
- 17-108. Burn permits required.
- 17-109. Service of orders.
- 17-110. Residential chipper service guidelines and restrictions.
- 17-111. Residential leaf pickup service guidelines and restrictions.
- 17-112. Violations and penalty.
- **17-101.** <u>Definitions</u>. (1) "Ashes." The waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.
- (2) "Brush and chipper waste." Sticks, limbs, branches, growths, trimmings, woody plant material and woody plant debris produced from homeowner maintenance of residential buildings.
- (3) "Collector." Any person, firm, corporation, or political subdivision which collects, transports, or disposes of any refuse/litter within the corporate limits of the City of Fairview.
- (4) "Garbage." All putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products, from all public and private residences and establishments.
- (5) "Health officer." The health authority of Williamson County or his authorized representative.

Property maintenance regulations: title 13.

¹Municipal code reference

- (6) "Leaf and foliage waste." Fallen leaves and foliage, not including, sticks, limbs, branches, growths, trimmings, woody plant material and wood plant debris, produced from homeowner maintenance of residential landscaping.
- (7) "Refuse." Garbage, rubbish, ashes, litter, and all other putrescible and non-putrescible, combustible, and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce, and other similar unwanted materials, but shall not include sewage, body wastes, or recognizable industrial by-products, from all residences and establishments, public and private.
- (8) "Rubbish." All non-putrescible waste materials, except ashes from all public and private residences and establishments. (Ord. #2018-15, Oct. 2018; Ord. #2019-27, Nov. 2019, modified)
- 17-102. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the City of Fairview are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, offal, filth, and trash. Such persons, firms, and corporations are hereby required to store such refuse in sanitary containers of the type described in this chapter between intervals of collection or to dispose of such material in a manner prescribed by the health officer so as not to cause a nuisance or become injurious to the public health and welfare. (1996 Code, § 17-102, modified)
- 17-103. Storage of refuse, etc. (1) Each owner, occupant, tenant, sub-tenant, lessee, or others using or occupying any building, house, structure, or grounds within the corporate limits of the City of Fairview where refuse materials or substances as defined in this chapter accumulate, or are likely to accumulate, shall provide and keep covered an adequate number of suitable containers. The refuse containers shall be strong, durable and rodent-proof and insect-proof.
- (2) No refuse may be burned, except as may be permitted by the provisions of this chapter.
- (3) To ensure convenient storage and removal of refuse at sites where construction or demolition of buildings is underway, and to minimize littering in the area, an adequately sized dumpster or similar container acceptable to the city's chief building official or his designee shall be placed at each such site. The disposal of refuse brought to any such container from other places is prohibited. The location of the container shall be identified on the site plan or plot plan and approved as a part of the issuance of the building permit. The container shall be promptly removed upon completion of construction or demolition. At any time, the chief building official or his designee may direct that the container be placed in or moved to a location which will:
 - (a) Allow more convenient access for removal of waste and debris; or

- (b) Be less likely to pose a nuisance for the occupants of any homes or other structures in the area. (1996 Code, § 17-103)
- 17-104. <u>Disturbing containers</u>. 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. (1996 Code, § 17-104)

17-105. Collection and/or removal of garbage, refuse and litter.¹

- (1) <u>Collection vehicles</u>. Except for individual residents hauling their own generated refuse, the collection of refuse shall be by means of vehicles for which provisions are made to prevent the scattering of refuse over the streets and thoroughfares by effective coverings or closed truck beds. Hauling in unauthorized vehicles is a misdemeanor.
- (2) <u>Insurance requirement</u>. For the purposes of this chapter, "adequate insurance coverage" shall mean that each person or entity required to register under this section shall have filed with the city manager and maintain at all times a certificate of insurance indicating that such person or entity is insured against claims for damages for personal injury and/or property damage which may arise from or out of the work performed in picking up, hauling, transporting or removing refuse. The amount of insurance coverage to be required shall be no less than one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per occurrence for personal injury damages, and no less than one hundred thousand dollars (\$100,000.00) for property damages.

Persons engaged in the removal of self-generated garbage/refuse to a designated and approved landfill, dumpster, convenience center or recycling site shall not be required to register with the city or file a certificate of insurance, nor shall persons assisting with community beautification projects at no charge be so required.

- (3) <u>Collection and transportation of garbage/refuse</u>. (a) Vehicle bodies and containers used for the collection and transportation of garbage/refuse shall be impermeable and constructed of durable metal and/or other materials that are easily cleanable. All refuse materials not secured in closed plastic bags shall be kept either in an enclosed, leak-proof compartment or fully covered by tarpaulin during transportation beyond private driveways.
- (b) Any person or entity collecting, transporting or hauling garbage/refuse or permitting garbage/refuse to be collected, transported

Tennessee Code Annotated, chapter 5-19.

¹State law reference

or hauled on or along any public streets or ways shall take such measures as may be necessary to prevent the scattering, blowing or spilling of such garbage/refuse upon streets or adjoining private properties and shall fully comply with applicable federal, state and local regulations. Any such person or entity collecting, transporting or hauling garbage/refuse shall immediately collect any such garbage/refuse which is scattered, blown or spilled.

- (c) Responsibility for the disposal of garbage/refuse shall pass to the collector when placed in the collector's vehicle, removed by the collector from containers or removed by the collector from the owner's premises.
- (d) All vehicles used in the business of collecting or transporting garbage/refuse shall be identified with an identifying name and telephone number on the sides and rear of the vehicle. Lettering shall not be less than four inches (4") in height.
- (e) All vehicles used for the collection or transportation of garbage/refuse shall be operated in a safe and lawful manner. Each person or entity required to register under this section shall bear responsibility for the condition of the vehicles used for the collection and transportation of garbage/refuse and the manner in which such vehicles are operated.
- (f) The collection of garbage/refuse shall be permitted only during daylight hours, and no earlier than 7:00 A.M. and no later than 7:00 P.M. on any day, except that the city manager may upon request provide written permission for the collection of garbage/refuse during such other hours where the collection of garbage/refuse will not unreasonably interfere with the peace and quiet of area residents. The city manager may, in his discretion, revoke any such permission so granted.
- (g) Those persons or entities who collect garbage/refuse upon the streets of Fairview for the purpose of hauling said garbage/refuse to an approved facility shall not store the collected garbage/refuse, etc. for any reason within the corporate limits of the City of Fairview prior to its final proper disposal.
- (h) Motorized vehicular equipment or mobile storage facilities utilized by persons or entities who collect garbage/refuse upon the streets of Fairview shall not be stored at any time in the corporate limits of the City of Fairview except within enclosed buildings or in areas screened from the site of public roadways. The screening materials and methods for screening utilized shall be approved by the city manager or his designee. For the purposes of this section, equipment will be considered stored if it is left in any areas of the City of Fairview unattended by at least one (1) person per individual piece of equipment. For the purposes of this chapter, equipment shall be considered unattended if it is left

without at least one (1) attending person per piece of equipment for any period of time in excess of eight (8) hours. (1996 Code, § 17-105, modified)

- **17-106.** <u>Disposal of garbage/refuse</u>. (1) The disposal of garbage/refuse in any quantity by any person or entity at any place, public or private, within the city, other than at a site or sites designated for garbage/refuse disposal by the board of commissioners, is expressly prohibited.
- (2) No person or entity shall dump, throw, deposit or leave garbage at any place, public or private, within the city, except in public receptacles or in authorized private receptacles for collection. Persons or entities placing garbage/refuse in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any public or private place.
- (3) No person, while a driver or passenger in a vehicle, shall throw or deposit garbage/refuse upon any street or other public place within the city or upon private property. The driver of a vehicle from which garbage/refuse is thrown or deposited shall bear prima facie liability for such litter. (1996 Code, § 17-106, modified)
- 17-107. <u>Dumping in streams, sewers, and drains prohibited</u>. It shall be unlawful for any person, firm, or corporation to dump garbage/refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drain within the City of Fairview. (1996 Code, § 17-107)
- 17-108. <u>Burn permits required</u>. (1) It shall be unlawful for any person, business, firm, corporation or entity to kindle or maintain any bonfire, rubbish fire, debris fire or other fire, or to authorize any such fire to be kindled or maintained, within the city limits of the City of Fairview, without having been issued a burn permit from the City of Fairview Fire Department.
- (2) No construction, demolition or waste materials at or from any construction site may be burned without, and/or prior to, obtaining a burn permit from the City of Fairview Fire Department.
- (3) Burn location requirements are minimally one (1) or more of the following:
 - (a) Fire not contained in waste burn structure, device or facility shall be no less than fifty feet (50') from any structure and with adequate provisions to prevent the fire from spreading to within fifty feet (50') of any structure;
 - (b) Fire contained in a waste burn structure, device or facility shall be no less than fifteen feet (15') from any structure and with adequate provisions to prevent the fire from spreading to within fifteen feet (15') of any structure; or
 - (c) The fire chief, or his or her designee, may use his or her discretion to require other reasonable safeguards for the issuance of a

burn permit and such requirements, if applicable, must be specified in the burn permit issued.

- (4) The fire department shall have the authority to extinguish any permitted burn if the permitted burn is not safely controlled by the permit applicant or becomes such a hazard that the permit applicant is not capable of controlling the burn.
- (5) The fire department shall have the authority to extinguish any burn not requiring a permit if the burn is not safely controlled or becomes such a hazard that the operator of the burn is not capable of controlling the burn.
- (6) The fire department may prohibit or extinguish any permitted and/or non-permitted burn when weather conditions or other factor(s) make burning exceptionally hazardous.
- (7) Nothing in this chapter shall prevent any business or resident from burning a recreational campfire, fire pit, fireplace or grill and no permit shall be required for such campfire, fire pit, fireplace or grill.
 - (8) Burn permit application fees shall be as follows:
 - (a) Residential homeowner burn permit: zero dollars (\$0.00);
 - (b) Single-family residential construction permit: fifty dollars (\$50.00) per lot; and
 - (c) Commercial, industrial, and multi-family residential construction: fifty dollars (\$50.00) per day, two hundred fifty dollars (\$250.00) per week, five hundred dollars (\$500.00) per month.
- (9) Burn permit requirement violations: Any person who violates this section shall be subject to a penalty of fifty dollars (\$50.00) per day per occurrence. (Ord. #2019-22, Sept. 2019)
- 17-109. Service of orders. It shall be the duty of the health officer or his authorized representative to issue orders requiring the proper handling of garbage/refuse/litter on private and public premises. Such orders will be issued to owners, occupants, tenants, or lessees of such properties where violations of this chapter are known to exist and shall require that such violations be corrected within the time specified by the health officer. (1996 Code, § 17-109)

17-110. Residential chipper service guidelines and restrictions. The proper placement of brush/chipper waste, the amount of brush/chipper waste, the size of brush/chipper waste to process, the types of materials that are acceptable and examples of materials not acceptable are as follows:

- (1) Brush shall not be placed in any roadway median;
- (2) Brush and debris to be processed must be residential landscaping brush and debris resulting from general landscaping maintenance and trimming;
- (3) Brush shall be placed at the roadside of the residential address at which it was produced, and may not be left for a time greater than fourteen (14) days before scheduled pickup;

- (4) The maximum brush pile size shall be three feet (3') high and ten feet (10') by ten feet (10') square and no more than one (1) brush pile may be set out for service at any one (1) time;
 - (5) No limbs larger than four inches (4") in diameter will be processed;
- (6) No vines, root balls, dirt, loose leaves, hay or straw will be processed;
- (7) Brush intertwined with plastics, fabric, metal, wiring, cable, any fencing or similar foreign materials will not be processed;
- (8) No household materials, appliances or similar items will be processed;
 - (9) No lot clearing debris or whole trees will be processed; and
- (10) No brush or debris produced by commercial or professional landscaping services, professional tree removal or professional tree trimming will be processed. (Ord. #2019-29, Nov. 2019)
- 17-111. <u>Residential leaf pickup service guidelines and restrictions</u>. The proper placement of leaf and foliage waste, the amount of leaf and foliage waste, the types of materials that are acceptable and examples of materials not acceptable are as follows:
- (1) All leaves and foliage for pickup must be placed in a biodegradable bag;
- (2) No more than ten (10) biodegradable bags of leaf and foliage waste will be picked up per residence, per month;
 - (3) Bags shall not be placed in any roadway median;
- (4) Leaf and foliage waste to be processed must be residential landscaping waste resulting from general landscaping maintenance;
- (5) Bags shall be placed at the roadside of the residential address at which it was produced, and may not be left for a time greater than fourteen (14) days before scheduled pickup;
- (6) No limbs, sticks, vines, root balls, dirt, loose leaves, hay or straw will be processed;
- (7) No household materials, appliances or similar items will be processed;
 - (8) No lot clearing debris will be processed; and
- (9) No leaves or foliage waste produced by commercial or professional landscaping services or professional tree trimming will be processed. (Ord. #2019-26, Nov. 2019)
- 17-112. <u>Violations and penalty</u>. (1) Any person who shall violate any of the provisions of this chapter, or who shall fail or refuse to obey any written notice issued by the Williamson County Health Department or the City of Fairview with reference to the placement, deposit, storage, accumulation, or disposal of garbage, refuse, litter, leaf and foliage waste, or brush and/or

chipping waste, as described in § 17-101 of this chapter, shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense.

(2) Each day a violation is allowed to continue from the date of the original citation or notice shall constitute a separate offense. (Ord. #2019-28, Nov. 2019)

TITLE 18

WATER AND SEWERS

CHAPTER

1. STORMWATER MANAGEMENT.

CHAPTER 1

STORMWATER MANAGEMENT

SECTION

18-101. Stormwater management.

18-101. <u>Stormwater management</u>. The stormwater management regulations for the City of Fairview, Ord. #2022-08, dated 3/24/22 and any amendments thereto, may be found as Appendix A to this code.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. GAS.

CHAPTER 1

GAS

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1996 Code, § 19-101)

 $^{^{1}}$ The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

- 1. TELEPHONE FRANCHISE.
- 2. MUNICIPAL TORT LIABILITY.
- 3. PARK PERMITS AND FEES.
- 4. SECURITY ALARM SYSTEMS.
- 5. FEES FOR USE OF FACILITIES IN BOWIE PARK.
- 6. RETENTION OF MUNICIPAL RECORDS SCHEDULE.

CHAPTER 1

TELEPHONE FRANCHISE

SECTION

20-101. To be furnished under franchise.

20-101. To be furnished under franchise. Telephone service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1996 Code, § 20-201)

¹The agreements are of record in the office of the city recorder.

MUNICIPAL TORT LIABILITY

SECTION

20-201. City exempt from tort liability.

20-201. <u>City exempt from tort liability</u>. The City of Fairview exempts itself from tort liability to the extent allowed by law. (1996 Code, § 20-301)

PARK PERMITS AND FEES

SECTION

- 20-301. Park use deposits and permits.
- 20-302. Procedure for obtaining permits.
- 20-303. Shelter fees.
- 20-304. Electricity outlet fees.
- 20-305. Unlawful to utilize park facilities without obtaining permits and paying required fees.
- **20-301.** Park use deposits and permits. Any event open to the public and sponsored by a civic group, club, or organization shall be required to provide a park use deposit and obtain a park use permit.
- (1) A park use deposit of five hundred dollars (\$500.00) is required for any event with an expected attendance of two hundred fifty (250) persons or less.
- (2) A park use deposit of one thousand dollars (\$1,000.00) will be required for any event with an expected attendance of more than two hundred fifty (250) persons.
- (3) The park use deposit may be in the form of an irrevocable letter of credit from a bank. (1996 Code, § 20-402)
- **20-302. Procedure for obtaining permits**. The procedure for obtaining permits will be as follows:
- (1) For any event with an expected attendance of two hundred fifty (250) persons or less:
 - (a) An application must be made at least six (6) weeks prior to the event. The application may be obtained at the city hall.
 - (b) The application must be filed with the park director.
 - (c) The application must be accompanied by the park use deposit.
 - (d) Proof of insurance may be required if deemed necessary by the park director or the park superintendent.
 - (e) If the event is approved by the park director, a park use permit will be issued at city hall.
 - (f) The park use deposit will be retained until such time as the park director or the park superintendent assesses the condition of the park. If it is determined that there is any damage to the park as a result of the event, the park director or park superintendent shall retain such amount from the park use deposit as is necessary to repair such damage.
 - (g) Any amount of the park use deposit not retained will be refunded to the applicant.

- (2) For any event with an expected attendance of more than two hundred fifty (250) persons:
 - (a) An application must be made at least six (6) weeks prior to the event. The application may be obtained at the city hall.
 - (b) The application must be filed with the park director.
 - (c) The application must be accompanied by the park use deposit.
 - (d) Proof of insurance may be required if deemed necessary by the park director or the park superintendent.
 - (e) The event is to be approved by the administrative committee, the board of commissioners.
 - (f) If a security plan is required by the administrative committee, the board of commissioners, and the Fairview Recreation Advisory Board, the applicant must submit a plan no later than two (2) weeks prior to such event. If the security is sought from the Fairview Police Department, the applicate shall be responsible for all fees.
 - (g) The park use deposit will be retained until such time as the park director or the park superintendent assesses the condition of the park. If it is determined that there is any damage to the park as a result of the event, the park director or park superintendent shall retain such amount from the park use deposit as is necessary to repair such damage.
 - (h) Any amount of the park use deposit not retained will be refunded to the applicant. (1996 Code, § 20-403, modified)
- **20-303.** Shelter fees. A shelter fee shall also be required for use of any shelter in the park. Fees are non-refundable. (1996 Code, § 20-404, modified)
- **20-304.** Electricity outlet fees. An electricity outlet fee shall be required. Fees are non-refundable. (1996 Code, § 20-405, modified)
- **20-305.** Unlawful to utilize park facilities without obtaining permits and paying required fees. It shall be unlawful for anyone to hold such event as described herein without following the prescribed procedures and without obtaining the proper approval along with posting of the proper deposit. Failure to follow the proper procedures is a municipal offense. (1996 Code, § 20-406)

SECURITY ALARM SYSTEMS

SECTION

- 20-401. Definitions.
- 20-402. Automatic telephone dialing alarm systems.
- 20-403. Permit issuance.
- 20-404. Application requirements for an alarm permit.
- 20-405. Items required for an alarm system to qualify for an alarm permit.
- 20-406. False alarms.
- 20-407. Fee assessment.
- 20-408. Disconnection.
- 20-409. Violations and penalty.
- **20-401.** <u>**Definitions**</u>. Unless it is apparent from the context that another meaning is intended, the following words when used in this chapter shall have the following meanings:
- (1) "Alarm business" means the business of any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in or on any building, structure, or facility.
- (2) "Alarm system" means an assembly of equipment, mechanical or electrical, arranged to signal the police department and/or fire department that an emergency exists and the department is needed. "Alarm system" shall also mean any alarm device which automatically emits audible, visual or other response upon the occurrence of any hazard or emergency and is intended to alert persons outside the building to the existence of said hazard or emergency.
- (3) "Alarm user" means the person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility or portion thereof wherein an alarm system is maintained.
- (4) "Answering service" refers to a telephone answering service providing among its services on a continuous basis emergency signals from alarm systems and thereafter relaying the message to a dispatch facility or notifying the police department.
- (5) "Automatic telephone dialing alarm system" means any alarm system which is a device which automatically or electronically transmits by telephone or telephone line connected to a dispatch facility a recorded message or code signal indicating a need for emergency response; or, a system which, upon activation, connects to an answering service for transmission to the police department of a need for emergency response.

- (6) "Dispatch facility" means a communications center designated to receive, route, and otherwise handle all incoming police emergency service communications traffic.
- (7) "False alarm" means an alarm signal eliciting a response by the police department when a situation requiring a response by the police department does not in fact exist; but this definition does not include an alarm signal caused by unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. (1996 Code, § 20-501)
- **20-402.** <u>Automatic telephone dialing alarm systems</u>. (1) It shall be unlawful for any person, natural or corporate, without a permit, to sell, offer for sale, install, maintain, lease, operate, or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the police department.
- (2) The police department, when it has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system installed or operating in violation of this chapter shall, in writing, order the owner, operator, or lessee to disconnect and cease operation of the system within seventy-two (72) hours of receipt of the order. (1996 Code, § 20-502)
- **20-403.** <u>Permit issuance</u>. (1) The police department is hereby authorized to grant a revocable alarm users permit to any alarm user located in the city to operate, maintain, install, or modify a police or fire alarm device, and no such device shall be operated unless such a permit has first been issued.
- (2) A permit issued pursuant to this chapter may be revoked at any time by the police department upon the giving of ten (10) days notice in writing by certified or registered mail to the permit holder, sent to the address shown on the permit. Violation of this chapter, following conviction thereof, shall constitute grounds for revocation of the permit. The failure of the police department to revoke the permit following the finding of the city court that there has been a violation of this chapter shall not be deemed a waiver of the right to revoke the permit.
- (3) A fee of ten dollars (\$10.00) shall be charged for issuance of any such permit. Each permit will be renewed by December 31, with a five dollar (\$5.00) renewal fee assessed annually. (1996 Code, § 20-503)
- **20-404.** Application requirements for an alarm permit. Application for an alarm permit shall be made on forms provided by the police department, and shall be accompanied by the fee as set forth in § 20-403(3). The application form shall request the following information:
 - (1) Make and type of alarm system;
- (2) The name, address, and telephone number of the applicant's property to be served by the alarm, and the name, address, and telephone

number of applicant's residence if different. If the applicant's alarm is serviced by an alarm company, then the applicant shall also include the name, address, and telephone number of that company including the name, address, and telephone number of any alarm-monitoring service if different from the alarm company;

- (3) An emergency telephone number of the user or his representative to permit prompt notification of alarm calls and to assist police personnel in the inspection of the property;
- (4) It is the applicant's responsibility to immediately notify the police department in writing of any and all changes in the information on file with the city regarding such permit. Failure to do so shall constitute grounds for revocation of the permit;
- (5) The approximate time required for the applicant or designated responsible keyholder to respond to the scene of an alarm activation; and
- (6) The issuance and renewal fees set forth in § 20-403(3). (1996 Code, § 20-504)
- **20-405.** <u>Items required for an alarm system to qualify for an alarm permit</u>. (1) All alarm systems shall have a backup power supply that will become effective in the event of power failure or outage in the source of electricity.
- (2) All alarm systems will have an automatic reset which silences the annunciator within thirty (30) minutes after activation and will be the responsibility of permittee to see that continued activation by the same event does not occur in an eight (8) hour time frame.
- (3) Any system installed on or after the effective date of this chapter must comply with the requirements stipulated in this section. Pre-existing installations must comply with this section within six (6) months of the effective date of this chapter.¹
- (4) Any alarm system user must respond or have a designated representative to respond to the scene of any alarm activation to assist police or fire personnel in the inspection of the building, structure, or facility.
- (5) After notification by the police department or fire department of an alarm activation, any alarm user who fails to respond or have a designated representative respond to the scene of such alarm activation will be subject to a fine of not less than twenty-five dollars (\$25.00). Failure to respond to more than three (3) alarms in a permit year will be grounds for revocation of the alarm permit. (1996 Code, § 20-505)

¹This chapter was taken from Ord. #413 which passed final reading June 19, 1997.

- **20-406.** <u>False alarms</u>. (1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by police or fire personnel, an officer on the scene of the activated alarm shall determine whether the emergency response was in fact required as indicated by the alarm system or whether, in some way, the alarm system malfunctioned and thereby activated a false alarm.
- (2) If the officer at the scene of the activated alarm system determines the alarm to be a true false alarm and not an accidental or emergency alarm, then the officer on the scene will advise the alarm user or representative the system needs to be checked. More than one (1) false alarm in a thirty (30) day period will result in a written notification to the permit holder. The permit holder upon receipt of the notification shall be entitled to a hearing before the city administrator or his designee. The permit holder desiring a hearing shall request said hearing within ten (10) days of the date of notification.
- (3) The police department shall have the right to inspect any alarm system on the premises to which response has been made and may cause an inspection of such system to be made at any reasonable time thereafter to determine whether it is being used in conformity with the terms of this chapter.
- (4) It shall be a violation of this chapter to intentionally cause a false alarm, and any person who intentionally causes a false alarm shall be subjected to the penalty provisions hereof.
- (5) There shall be provided to the alarm user a ten (10) day grace period during the initial installation of the alarm system. The ten (10) days shall commence to run upon the issuance of the alarm permit by the police department.
- (6) Any alarm business testing or servicing any alarm system shall notify the police department and/or fire department and shall instruct said department of the location and time of said testing and servicing. This shall apply to any testing period after the initial installation period has ceased.
- (7) If the police department denies the issuance or renewal of a permit, or revokes a permit, it shall send written notice of its action and a statement of the right to appeal to the city administrator or board of commissioners, by certified mail, return receipt requested, to both the applicant or permit holder and the applicable alarm-installing service company. (1996 Code, § 20-506)
- **20-407.** Fee assessment. (1) Within a permit year, a service charge shall be automatically levied against the alarm user of fifty dollars (\$50.00) upon the occurrence of the fourth false alarm, an alike amount for the fifth false alarm, and additional false alarms. All service charges levied shall be paid to the town by the alarm user within thirty (30) days of the date of the written notice of said charges. Failure to make payment within thirty (30) days from date of notice shall result in the revocation of the alarm permit and the alarm owner shall be cited into Fairview City Court. Continued alarms from a revoked permit site may result in the ordered disconnection of the alarm system.

- (2) The sixth false alarm, and any subsequent false alarms, within a permit year shall result in revocation of the alarm user's permit in the following manner:
 - (a) The alarm user shall be given ten (10) days advance written notification that the alarm user's permit will be revoked, which written notice shall set forth the reason for such revocation.
 - (b) Reinstatement of the permit and police department services may occur upon receipt of a letter from an alarm company that the alarm system is operating properly and upon inspection and approval by the police department, and receipt of a one hundred dollar (\$100.00) reinstatement fee. (1996 Code, § 20-507)
- **20-408.** <u>Disconnection</u>. In the event that an alarm system emitting an audible, visual, or other similar response shall fail to be deactivated within the time limitations specified in the previous section hereof, the city shall have the right to take such action as may be necessary in order to disconnect any such alarm. (1996 Code, § 20-508)
- **20-409.** <u>Violations and penalty</u>. Any person who violates any provision of this chapter shall be guilty of a violation, and upon conviction in city court, shall be subject to a fine of fifty dollars (\$50.00) plus any court costs. Each occurrence constitutes a separate offense. (1996 Code, § 20-509)

FEES FOR USE OF FACILITIES IN BOWIE PARK

SECTION

20-501. Fees for use of facilities in Bowie Park.

- **20-501.** <u>Fees for use of facilities in Bowie Park</u>. The following fees shall be charged for the use of the following facilities in Bowie Park.
 - (1) <u>Miscellaneous</u>. (a) Fees.
 - (i) The events and the fees to be charged to individuals, businesses (profit and non-profit) and all entities who desire to conduct or participate in such events shall be determined as required by the City of Fairview park staff and forwarded to the city manager for approval.
 - (ii) Upon approval by the city manager of the fees for events described in subsection (1)(a) of this section, the city manager will direct the location for the posting of these fees. The posting of the fees shall include, but not be limited to, the city's website, city recreational center and such bulletin boards in Bowie Park that the city parks department deems appropriate.
 - (iii) No event(s) or the fee(s) determined by the City of Fairview Parks Department to be charged for participating in the event shall be posted or charged until they are approved by the city manager and communicated by the city manager to the board of commissioners at a regular or special meeting of the said board.
 - (b) It shall be a violation of this chapter for any person or persons required to pay a fee in accordance with § 20-501(1)(a) for use of any facilities outlined in subsection (1)(a) of this section as directed by this chapter. Failure to pay the fee in accordance with this chapter shall subject the violator to the following:
 - (i) First offense warning;
 - (ii) Second offense fifty dollar (\$50.00) fine; and
 - (iii) Third offense fifty dollar (\$50.00) fine and suspension from all Bowie Park facilities for a six (6) month period.
 - (2) Nature center. (a) All users (excluding those persons or entities exempted by this chapter) of the nature center at Bowie Park shall at the time the nature center is reserved post a five hundred dollar (\$500.00) deposit to cover breakage, theft or damage. The deposit may be posted by either cash, certified or cashier's check. The deposit will be returned in its entirety after inspection of the Bowie Nature Center by the director of parks or his designee, a determination has been made that no breakage, theft or damage of any type or kind has resulted to the nature center at Bowie Park as a result of the use for which the deposit was posted and

any and all payments required by subsection (2)(b) of this section have been made. If any breakage, theft or damage of any type or kind has resulted to the nature center at Bowie Park as a result of the use for which the deposit was posted, or all payments required by subsection (2)(b) of this section have not been made the City of Fairview, Tennessee shall correct the resulting damage or deduct the cost of correction of the damage and any payment not made as required by subsection (2)(b) of this section from the bond and return the remainder to the provider of the bond within fourteen (14) days. If the damage or unmade payment is in excess of the posted bond, the City of Fairview, Tennessee shall keep the entire bond and the person or entity who posted the bond shall be liable for any excess cost to restore the nature center at Bowie Park to the condition it was in just prior to the damage resulting from the use of the nature center at Bowie Park for which the original bond was posted plus any payments required by subsection (2)(b) of this section which have not been paid in their entirety.

- (b) All users shall pay an hourly charge for use of the nature center at Bowie Park of fifty dollars (\$50.00) per hour. This charge is to be paid to the City of Fairview, Tennessee within two (2) days of the day the nature center at Bowie Park was utilized by the person, or entity. The payment shall be in either cash or by certified or cashier's check. The bond deposited in accordance with subsection (2)(a) of this section shall not be returned until payment is made for use of the facilities of the nature center at Bowie Park pursuant to this subsection (2)(b). If payment is not made as required by this subsection (2)(b) within four (4) days of the day the nature center at Bowie Park was utilized by the person or entity, the City of Fairview, Tennessee will deduct the payment for the hourly charge from the bond posted in accordance with subsection (2)(a) of this section and return the remainder of the bond in accordance with subsection (2)(a) of this section.
- (c) All users shall pay an hourly charge for on-site supervision at the nature center at Bowie Park. Fees must be paid in cash directly to the person designated in this subsection (2)(c) on the day or night the service is rendered. This supervision shall be present and on the site during the set up and take down of the activity. The supervisors shall be either off-duty park or police officers and shall be assigned by the Director of Parks for the City of Fairview, Tennessee. If payment to the designated supervisor is not made as required by this subsection (2)(c), the City of Fairview, Tennessee shall pay the designated supervisor and deduct the payment from the bond posted in accordance with subsection (2)(a) of this section.
- (d) All users shall, at the direction of the supervisor provided in subsection (2)(c) of this section, install barricades as directed by the

supervisor to keep all persons away from the displays in the nature center at Bowie Park.

The Friends of Bowie Nature Park and the Fairview, Tennessee Chamber of Commerce shall be exempt from the provisions of this chapter as long as they maintain on file in the office of the parks director the name of the current president of the Friends of Bowie Nature Park and the Fairview, Tennessee Chamber of Commerce along with a statement signed by the said president of each entity that he or she shall be responsible for obtaining the key to the nature center at Bowie Nature Park, unlocking and locking the nature center at Bowie Nature Park before and after their activities, promptly returning the key to the nature center at Bowie Nature Park to the office of the director of parks at the conclusion of the activity. In addition, the statement must include an agreement that the current president of the Friends of Bowie Nature Park and the Fairview, Tennessee Chamber of Commerce will act as the responsible party to ensure that the provisions of subsections (2)(c) and (2)(d) of this section are executed at all events conducted by the Friends of Bowie Nature Park and the Fairview Tennessee Chamber of Commerce. (Ord. #868, Feb. 2015, modified)

RETENTION OF MUNICIPAL RECORDS SCHEDULE

SECTION

20-601. Records retention policy.

20-601. Records retention policy. The Schedule for Retention of Municipal Records for the City of Fairview¹ is adopted by reference as if set out fully herein. (Ord. #2018-10, Aug. 2018)

¹The records retention policy for the City of Fairview, and any amendments thereto, are of record in the office of the city recorder.

City of Fairview Stormwater Management Regulations

Ordinance Adopted by the City of Fairview Board of Commissioners on March 24, 2022



(Ord. #2022-08, March 2022)

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Introduction

The City of Fairview maintains a set of programs to manage the quality of stormwater runoff from the storm sewer systems. These programs were developed with the intent to align with the required coverage under the Tennessee NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4). As such, the City program is organized within six (6) minimum control measures (MCMs):

- 1. Public Education and Outreach MCM 1
- 2. Public Involvement/Participation MCM 2
- 3. Illicit Discharge Detection and Elimination MCM 3
- 4. Construction Site Stormwater Runoff Pollutant Control MCM 4
- 5. Permanent Stormwater Management at New Development and Redevelopment Projects MCM 5
- 6. Pollution Prevention/Good Housekeeping for Municipal Operations MCM 6

Fairview manages the stormwater program jointly between the Engineering, Planning & Codes, and Public Works Departments. The Public Works Department maintains the City's storm sewer system/infrastructure. The Engineering Department issues permits for work within the City's right-of-way, permits for land disturbing work on private lots, and administers the City's stormwater program through various MS4 Permit compliance activities such as site plan review with assistance from the Planning & Codes Department. Examples of the programs the city maintains include:

- Issuing Grading, Site Utilization, and Reclamation Permits and performing erosion prevention and sediment control inspections (MCM 3 & 4)
- Right-of-way and creek monitoring and maintenance (MCM 3 & 6)
- Public meetings to discuss various stormwater related topics (MCM 1)
- Organizing volunteer creek maintenance (MCM 2)
- Routine inspection/maintenance records for permanent stormwater control measures (i.e. underground detention structures, rain gardens, permeable pavement systems) (MCM 5)

TITLE 14, CHAPTER 4 STORMWATER

ORDINANCE

14-401. General Provisions.

- (1) <u>Purpose.</u> It is the purpose of this ordinance to:
 - (a) Protect, maintain, and enhance the environment of the City of Fairview and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City;
 - (b) Enable the City of Fairview to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges;
 - (c) Allow the City of Fairview to exercise the powers granted in <u>Tennessee Code Annotated</u> § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - (i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the City, whether or not owned and operated by the City;
 - (ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
 - (iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments, and any proposed land disturbing activities requiring a Grading, Site Utilization, and Reclamation Permit;

- (v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
- (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- (viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.
- (2) <u>Administering Entity.</u> The City of Fairview shall administer the provisions of this ordinance through the City Manager, City Engineer, City Planning Director, and the Public Works Director.
- (3) <u>Stormwater Management Ordinance.</u> The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater.

14-402. Definitions

For the purpose of this ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) "Administrative or Civil Penalties." Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (2) "Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (3) "Borrow Pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.
- (4) "Buffer Zone" means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those waterbodies. Buffer zones are not primary sediment control measures and should not be relied on as such.
- (5) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

- (6) "City Manager", "City Engineer", "City Planning Director", and/or the "Public Works Director" means the City of Fairview, City Manager, City Engineer, City Planning Director, and the Public Works Director, each of whom has authority to enforce the provisions of this stormwater ordinance, Title 18, Chapter 5 of the Code of the City of Fairview, and each of whom has the authority to delegate to designated City staff or the staff of the City's designated engineering consultant.
 - (a) The "City Manager", "City Engineer", and/or the "City Planning Director" shall also act at the "City Inspector," as that term is used herein, which means a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course.
 - (i) This person performs inspections on behalf of the City to check compliance with the City's requirements and performs enforcement activities.
 - (ii) This person does not do the functions of an "Inspector" defined below.
 - (b) As between the City Engineer, City Planning Director, and City Public Works Director, they shall resolve in conjunction with the City Manager primary responsibility for matters addressed by this ordinance. With regard to private property, it is generally understood that the City Engineer has primary authority and responsibility. With regard to City property such as streets, right-of-ways and other MS4 conveyances, it generally understood that City Engineer has primary authority and responsibility.
- (7) "Common plan of development or sale" is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.
- (8) "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Fairview. It may be necessary to use methodology from Standard Operating Procedures for

Hydrologic Determinations (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-17) to identify a community water.

- (9) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- (10) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-year, 5-year, 25-year, etc.,) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee:

http://hdsc.nws.noaa.gov/hdsc/pfds/pfds map cont.html?bkmrk=tn

Other data sources may be acceptable with prior written approval by TDEC Water Pollution Control.

- (11) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (12) "Disturb" means to alter the natural or predeveloped ground surface in such a way that the erosion potential of the ground surface is increased.
- (13) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, city or other legal entity has in the land of another.
- (14) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.
- (15) "Erosion prevention and sediment control plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

- (16) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:
 - (a) Vehicle Salvage Yards and Recycling Facilities
 - (b) Vehicle Service and Maintenance Facilities
 - (c) Vehicle And Equipment Cleaning Facilities
 - (d) Fleet Storage Areas (Bus, Truck, Etc.)
 - (e) Industrial Sites (Included on Standard Industrial Classification Code List)
 - (f) Public Works Storage Areas
 - (g) Facilities That Generate or Store Hazardous Waste Materials
 - (h) Commercial Container Nursery
 - (i) Restaurants and Food Service Facilities
 - (j) Other Land Uses and Activities as Designated by an Appropriate Review Authority
- (17) *"Illicit connections"* means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (18) *"Illicit discharge"* means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under 14-408 (2).
- (19) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).
- (20) "Inspector" An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:
 - (a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;

- (b) Update field SWPPP's;
- (c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
- (d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.
- (21) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (22) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (23) "Maintenance agreement" means a document recorded in the land records or with the City that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- "Municipal separate storm sewer system (MS4)" means the conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man- made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.
- (25) "National Pollutant Discharge Elimination System permit" or a "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.
- (26) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (27) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

- (28) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (29) "Person" means 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.
- (30) "Record drawings" means drawings depicting conditions as they were actually constructed.
- (31) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.
- (32) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (33) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.
- (34) "Soils Report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.
- (35) *"Stabilization"* means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (36) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (37) "Stormwater Control Measure (SCM) means measures meant to directly affect the flow of stormwater and/or contaminants, and that have defined specifications and standards. These measures have one or both of two parts: 1) a defined surface management to encourage infiltration and contaminant removal; and/or 2) a clear Protocol defining engineering design, installation, and maintenance. A Measure such as a "good forest" has just a Management, a

Measure such as a manufactured stormwater treatment device has just an engineering Protocol, and "bioretention cell" has both.

- (38) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (39) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (40) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.
- (41) "Stormwater Pollution Prevention Plan (SWPPP)" means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion prevention and sediment controls to protect waters of the state. It also aids in the development of SWPPPs, and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPP's shall be prepared and updated in accordance with Section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.
- (42) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.
- (43) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.
- (44) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

- (45) "Tennessee Department of Environment and Conservation (TDEC) Level I & Level II Trained Individual" means an individual who has successfully completed the Level I Fundamentals course and the Level II Design Principles for Erosion Prevention and Sediment Control at Construction Sites course conducted by the Tennessee Water Resources Research Center.
- (46) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.
- (47) "Water Quality Buffer" See "Buffer".
- (48) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (49) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.
- (50) "Waters" or "waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.
- (51) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.
- (52) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules and Regulations of the State of Tennessee, Chapter 1200-4-3-.04(3)).

14-403. Erosion Prevention and Sediment Control

- (1) All land disturbing activities shall employ adequate erosion prevention and sediment control measures to minimize erosion and prevent off-site sedimentation in conformance with the provisions of this ordinance and guidance materials referenced herein. Land disturbing or construction activities that do not employ erosion prevention and sediment controls in conformance with this ordinance and that cause off-site sedimentation or sediment discharges to Waters of the State or onto adjacent properties shall be in violation of this ordinance.
- (2) All previously disturbed areas shall be permanently stabilized with groundcover sufficient to restrain erosion.

14-404. Waivers

- (1) <u>General.</u> No waivers will be granted for any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the current NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems primary requirement for on-site permanent stormwater management may be considered, if:
 - (a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
 - (b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City.
- (2) <u>Downstream Damage, etc. Prohibited.</u> In order to receive consideration, the applicant must demonstrate to the satisfaction of the City Engineer that the proposed alternative will not lead to any of the following conditions downstream:
 - (a) Deterioration of existing culverts, bridges, dams, and other structures;
 - (b) Degradation of biological functions or habitat;
 - (c) Accelerated streambank or streambed erosion or siltation;
 - (d) Increased threat of flood damage to public health, life or property.
- (3) <u>Grading, Site Utilization, and Reclamation Permit not to be Issued Where Alternatives Requested.</u> No Grading, Site Utilization, and Reclamation Permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is

approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management.

14-405. Stormwater System Design: Construction/Permanent Stormwater Management

- (1) MS4 Stormwater design or BMP Manuals.
 - (a) Adoption. The City of Fairview adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:
 - (i) TDEC Erosion Prevention and Sediment Control Handbook; current edition.
 - (ii) Tennessee Permanent Stormwater Management and Design Guidance Manual, current edition.
- (2) <u>Land Development.</u> This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and land disturbance applications. These standards apply to any new development or redevelopment site according to **Table 1** below:

Table 1 – Grading, Site Utilization and Reclamation Permit (GSURP) Requirements									
Total Disturbed area	GSURP Required?	City forms/checklists to complete	Stormwater Management Plan required?	Construction General permit (CGP) coverage required?	Water Quality Buffer Required?				

< 10,0000 ft ² and < 5,000 ft ² increase in impervious area	No	None	No	No	No
10,000 ft ² – 0.99 acre and/or >= 5,000 ft ² increase in impervious area	Yes	GSURP Full Checklist	Yes; GSURP Full Checklist and Table 2	No	See Table 3
1 acre or more and/or >= 5,000 ft² increase in impervious area	Yes	GSURP Full Checklist	Yes; GSURP Full Checklist and Table 2	Yes	See Table 4

- (a) A Grading, Site Utilization, and Reclamation Permit may also be required if one of the following conditions apply:
 - The City of Fairview has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) The City of Fairview has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;
 - (iii) Changes in state or federal rules require sites of less than one acre that are not part of a larger common plan of development or sale, or otherwise require construction, to obtain a Grading, Site Utilization, and Reclamation Permit;
 - (iv) Any new development or redevelopment, regardless of size, that is defined by the City of Fairview to be a hotspot land use;

- (v) Development and redevelopment within the floodplain;
- (vi) New development or redevelopment that involves land development activity of one acre or more if such activities are part of a larger common plan of development, even multiple activities, that is part of a separate and distinct land development activity that may take place at different times on different schedules; or
- (vii) A permit may also be required for other comparable activities as determined by the City Engineer (e.g., swimming pool construction, increased impervious area).
- (b) Grading, Site Utilization, and Reclamation Permit applications shall not be approved unless the following conditions are met:
 - (i) For residential and non-residential developments disturbing 10,000 square feet or more of land or modification of the existing ground elevation by three (3) feet or more, an Erosion Prevention and Sediment Control Plan and a Stormwater Management Plan shall be required. Forms provided in Appendix A of this ordinance must be completed and submitted with the Grading, Site Utilization, and Reclamation Permit application. These forms may be altered as deemed necessary by the City Engineer to modify the information required to be provided by the applicant provided that such modification preserves the intent of this ordinance and do not alter the design criteria, or the water quality standards contained therein.
- (3) <u>Building Permit.</u> No building permit shall be issued until the applicant has obtained a Grading, Site Utilization, and Reclamation Permit where the same is required by this ordinance.
- (4) Review and Approval of Application.
 - (a) The City of Fairview, acting through its City Engineer, and as needed its designated consultant, shall review each application for a Grading, Site Utilization, and Reclamation Permit to determine its conformance with the provisions of this

ordinance. Within 15 days after receiving an application, the City of Fairview shall provide one of the following responses in writing:

- (i) Approval of the permit application;
- (ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
- (iii) Denial of the permit application, indicating the reason(s) for the denial.
- (b) If the City of Fairview has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City of Fairview within the timeframe designated in the conditional approval. However, the applicant shall be allowed to proceed with land disturbing activity so long as it conforms to conditions established by the City of Fairview.
- (c) No development activities shall be released until the Grading, Site Utilization, and Reclamation Permit has been approved.

(5) <u>Permit Duration.</u>

Every Grading, Site Utilization, and Reclamation Permit shall expire and become null and void one (1) year after the date of its approval, unless a building permit for the project has been obtained. If a building permit has been obtained, the Grading, Site Utilization, and Reclamation Permit will become null and void six (6) months after the date of building permit issuance, unless "actual construction" as defined in the City of Fairview Zoning Ordinance has begun and been continued in a diligent manner. Permit extension requests may be made in writing to the city.

(6) Notice of Construction.

After obtaining a permit, the applicant must notify the City of Fairview ten (10) working days in advance of the commencement of construction.

(7) Inspections and Maintenance.

- (a) The City Manager or their designee may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system, stream(s), natural drainageway(s) or via any other private or public stormwater management system during all reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this ordinance.
- (b) EPSC inspections The Grading, Site Utilization, and Reclamation Permit holder shall perform routine inspections as follows:
 - (i) Disturbed areas shall be inspected in conformance with the conditions of the TN Construction General Permit.
 - (ii) Inspections shall be documented, and the documentation provided to the City of Fairview through the City's digital project submittal portal when requested.
 - (iii) All erosion prevention and sediment control measures shall be inspected to ensure that they are functioning as designed.
- (c) All erosion prevention and sediment control measures shall be maintained by the Grading, Site Utilization, and Reclamation Permit holder to ensure that they are functioning as designed. Failure to maintain measures constitutes a violation of this ordinance.
- (d) Permanent Stormwater Management Facilities Inspections Permanent stormwater management facilities shall be inspected by the Grading, Site Utilization, and Reclamation Permit holder on a regular basis during construction and by the landowner after construction has been completed to ensure that they are functioning as designed.
 - Inspections shall be documented, and documentation provided to the City of Fairview through the City's digital project submittal portal when requested.

- (ii) Permanent stormwater facilities shall be maintained by the Grading, Site Utilization, and Reclamation Permit holder during construction and by the landowner after construction has been completed to ensure that they are functioning as designed.
- (iii) In addition to those sanctions provided herein, the maintenance of a permanent stormwater facility is subject to the Property Maintenance Regulations, Title 13, Code of the City of Fairview.

(8) <u>Performance Bonds.</u>

- (a) The City of Fairview requires the submittal of performance bonds in accordance with the City of Fairview Zoning Ordinance prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The bond shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.
- (b) The performance bond shall be released in full only upon submission of as-built plans in accordance with the City of Fairview Zoning Ordinance and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP(s) have been installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Fairview will make a final inspection of the structural BMP(s) to ensure that they are in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance bond based on the completion of various development stages can be made at the discretion of the City.
- (9) <u>Erosion Prevention And Sediment Control Plan Requirements.</u> The Erosion Prevention and Sediment Control (EPSC) plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage.

The plan shall be prepared by an individual who has successfully completed the TDEC Level II training course, a Certified Professional in Erosion and Sediment Control (CPESC), or a Professional Engineer (PE). The plan shall address all items on the GSURP checklists. Failure to fully complete the checklist could be considered an incomplete submittal and result in plan disapproval.

(10) Submittal of a copy of the NOC, SWPPP and NOT to the Local MS4. Permittees that were required to obtain coverage under the Construction General Permit who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed notice of termination (NOT) to the City of Fairview.

Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided. These permits must be provided before the issuance of any Grading, Site Utilization, and Reclamation Permit or the equivalent. Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

- (11) <u>Stormwater Pollution Prevention Plan (SWPPP) for Construction Stormwater</u>
 <u>Management.</u> The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (12) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.
- (12) Stormwater Pollution Prevention Plan Requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be staged so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate stage of the plan. The plan shall be sealed by a registered professional engineer or landscape

architect licensed in the state of Tennessee. The plan shall also conform to the requirements found in the MS4 BMP manual, and shall include at least the following:

- (a) Project description Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
- (b) A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or floodplains.
- (d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
- (e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
- (f) Approximate limits of proposed clearing, grading and filling.
- (g) Approximate flows of existing stormwater leaving any portion of the site.
- (h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

- (i) Location, size and layout of proposed stormwater and sedimentation control improvements.
- (j) Existing and proposed drainage network.
- (k) Proposed drain tile or waterway sizes.
- (l) Approximate flows leaving site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off- site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (m) The projected sequence of work represented by the grading, drainage and erosion prevention and sediment control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs.
- (n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (o) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work-day to the satisfaction of the city. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

- (p) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.
- (q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.
- (r) Specific details for construction waste management Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.
- (13) General Design Performance Criteria for Permanent Stormwater Management. Permanent stormwater management requirements for new development and redevelopment are summarized in **Table 2** below:

Table 2 – Permanent Stormwater Management in New Development and Redevelopment				
Total Disturbed area	Stormwater Runoff Quantity Requirements	Stormwater Runoff Quality Requirements	Comments	
< 10,0000 ft² and < 5,000 ft² increase in impervious area 10,000 ft² - 0.99 acre and/or >= 5,000 ft² increase in impervious area	None unless deemed necessary by the city Engineer and /or Public Works Director due to an increase in impervious area See Checklists –and Section 5(15) below.	None unless deemed necessary by the city Engineer and /or Public Works Director due to an increase in impervious area One nonstructural water quality improvement	Allowing runoff from impervious surfaces to flow over pervious surfaces (e.g., driveway runoff allowed to sheet flow across yard) is encouraged. Examples include disconnected roof drains, sheet flow of impervious surfaces runoff, or	
1 acre or more and/or >= 5,000 ft² increase in impervious area	See Checklists —and Section 5(15) below.	Runoff reduction (See Section 5(14) below)	vegetated filter strips.	

- (14) <u>Performance Criteria.</u> The following performance criteria shall be addressed for permanent stormwater management at all development sites that disturb one acre or more of land:
 - (a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters or the public storm sewer system.
 - (b) Limitations to the application of runoff reduction requirements include, but are not limited to:
 - (i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
 - (ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
 - (iii) Presence of sinkholes or other karst features.
 - (c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
 - (d) Incentive Standards for re-developed sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of 50% of the standard in the paragraph above is possible for a project that meets all 5 criteria:
 - (i) Redevelopment;
 - (ii) Brownfield redevelopment;

- (iii) High density (>7 units per acre);
- (iv) Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
- (v) Mixed use and Transit Oriented Development (within ½ mile of transit).
- (e) For projects that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
- (f) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.
- (g) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- (h) Stormwater discharges into streams impaired by sediment or into streams with an approved total maximum daily load (TMDL) may be subject to additional performance criteria.
- (i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.
- (j) Prior to or during the site design process, applicants for Grading, Site Utilization, and Reclamation Permits shall consult with the City of Fairview to determine if they are subject to additional stormwater design requirements.
- (k) The calculations for determining peak flows as found in the City of Fairview Zoning Ordinance and City of Fairview Subdivision Regulations shall be used for sizing all

stormwater facilities. Other hydrological methods of determining peak runoff may be substituted; however, they will be subject to the City Engineer's review for appropriateness.

- (15) <u>Minimum Volume Control Requirements.</u> The City of Fairview establishes the following standards to regulate the quantity of stormwater discharged, therefore:
 - (a) All site designs requiring a stormwater management plan or as otherwise required by the City of Fairview shall control the peak flow rates of stormwater discharge associated with design storms specified in the City of Fairview Zoning Ordinance and City of Fairview Subdivision Regulations or this ordinance and reduce the generation of post construction (or permanent) stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
 - (b) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the City of Fairview Zoning Ordinance, City of Fairview Subdivision Regulations and Appendix A of this ordinance unless the City of Fairview has granted the applicant a full or partial waiver for a particular BMP under §14-404.
 - (c) The maximum distance that a roof downspout may extend perpendicular from a structure is ten (10) feet. Up to three separate roof downspouts may be collected into a single collector pipe to be discharged the maximum perpendicular distance of ten (10) feet from the structure. A maximum ten (10) feet of roof drainage piping may be buried before the pipe outlets. The City Engineer's discretion may be used in the enforcement of the requirements of this Section 14-405(15)(c). Additionally, a plan prepared by a Tennessee registered Professional Engineer or Landscape Architect that does not meet the requirements of Section 14-405(15)(c) but otherwise complies with the requirements of a Grading, Site Utilization, and Reclamation Permit may be accepted by the City Engineer at his/her discretion.
 - (d) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Fairview may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

- (16) Permanent Stormwater Management Plan Requirements. The stormwater management plan shall include sufficient information to allow the City of Fairview to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall address all items on the Stormwater Management Plan checklist. Failure to fully complete the Stormwater Management Plan checklist will be considered an incomplete submittal and result in plan disapproval.
 - (a) Topographic base map: Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:
 - (i) Existing surface water drainage including streams, ponds, culverts, ditches, sinkholes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
 - (ii) Current land use including all existing structures, locations of utilities, roads, and easements;
 - (iii) All other existing significant natural and artificial features;
 - (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.
 - (b) Proposed structural and non-structural BMPs;
 - (c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
 - (d) Calculations Hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in subsection (18) below. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the MS4 BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Spread calculations;
- (ix) Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
- (x) Documentation of sources for all computation methods and field test results.
- (e) Soils information If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- (17) <u>Maintenance and Repair Plan.</u> The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (18) <u>Design Storms.</u> The following design storms shall be applicable to facilities constructed within the municipal boundaries of the City of Fairview. In no case shall the design storm relieve the designer and developer of the responsibility to prevent damage and hazards due to stormwater discharges associated with their projects. The 2, 10, 25, 50 and 100-year 24-hour storm peak discharge routing shall be included with all submitted construction plans to illustrate the flow path and depth, ensuring that hazards are not created. Engineering calculations shall accompany all residential, commercial, and industrial development requests and shall be stamped and signed by a licensed professional engineer experienced in storm water analysis and design.

- (a) <u>Storm Sewers and Inlets</u> 25-year storm, except where detention facilities discharge through the storm sewer. In such cases, the storm sewer design storm shall equal the storm water detention design storm. Maximum spread for curb and gutter systems shall be six (6) feet measured from the face of curb.
- (b) <u>Open Ditches</u> 25-year storm, except where detention facilities discharge through the open ditch. In such cases, the open ditch design storm shall equal the storm water detention design storm.
- (c) <u>Culvert Cross Drains</u> 50-year storm for local streets. Cross drains are defined as structures carrying storm water from one side of the roadway to the other and are no conveyances or streams, which are considered bridges. Culvert cross drains shall not cause backwater flooding of upstream structures during the 100-year storm. For collector and arterial roads, the design storm shall be the 100-year storm.
- (d) <u>Bridges</u> 100-year storm. Bridges are defined as structures designed to carry stream allows beneath a roadway and may be culverts, box, arch, span or other construction. Bridges shall not produce backwater flooding of upstream structures, nor a headwater of more than one (1) foot greater than natural conditions in the stream, whichever is less. The bridge shall not result in a widening of the stream or increase in stream velocities. The developer shall submit appropriate analyses demonstrating compliance with these conditions. Bridges on roadways rated higher than local streets (i.e., collector or arterial) shall be designed to convey 100-year storm without over topping the bride or approaches, and without causing upstream flooding of structures or facilities.
- (e) <u>Storm Water Detention Facilities</u> This includes infiltration systems as well. 50-year storm (and all lesser storms) for residential development. 100-year storm (and all lesser storms) for commercial and industrial developments. Without further design approval from the Planning Commission, stormwater detention facilities shall be underground for all commercial and industrial development.
- (19) Accessory Structures or Projections. No accessory structure or projection shall be placed in a public utility or drainage easement except where such structure or projection can be removed at the property owner's expense to permit maintenance and repair of utility easements. No fence or wall shall be installed so as to block or divert a natural drainage flow on to or off of any other land. A perpetual unobstructed buffer of at least twenty (20) feet in width for all stormwater infrastructure, including channels, shall be provided across properties with City right of ways or easements with satisfactory access.

(20) <u>Slope Grading Standards.</u> Portions of the development site that contain slopes of twenty (20) percent or greater shall be retained as undisturbed open space in commercial, industrial, and multi-family developments. Slopes of twenty (20) percent or greater can either be open space or a portion of a home lot that remains undisturbed for all residential developments and must be marked as a critical lot submittal. Shrubbery, undergrowth, and saplings four (4) inch diameter at breast height or smaller may be removed by methods approved in the construction documents. The City Engineer or their designee shall, on a case-by-case basis, grant special consideration for disturbance to twenty (20) percent slopes or greater in areas such as site accesses, roadway networks, and other similar design restraints. Steep slope standards shall not apply to isolated steep slopes with a contiguous area of less than 5,000 square feet.

To further preserve waterways, stormwater conveyances, and adjacent properties, the maximum permitted proposed grade for cut and fill areas shall be three units horizontal to one (3:1) unit vertical for all residential and non-residential development. Without the use of approved grade changing devices, the maximum uninterrupted slope length of proposed slopes four units horizontal to one (4:1) unit vertical or steeper shall not exceed twenty-five (25) feet. (as amended by Ord. #2023-07, June 2023)

14-406. Permanent Stormwater Management: Operation, Maintenance, and Inspection

- (1) Record Drawings. All applicants are required to submit record drawings (electronic PDF, AutoCAD DWG and hard copy formats) for any structures located on-site after final construction is completed. The drawing(s) must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. The drawings shall be provided in coordinates systems as established by the Tennessee Department of Transportation (TDOT) Survey Manual. A minimum of three (3) surveyed ground control points shall be provided following the TDOT survey requirements. A final inspection by the City of Fairview is required before any performance bond will be released. The City of Fairview shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City of Fairview.
- (2) <u>Landscaping and Stabilization Requirements.</u>

- (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased (7 days for slopes of 35 percent or steeper). In the following situations, temporary stabilization measures are not required:
 - (i) where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or
 - (ii) where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days.
- (b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.
- (c) The following criteria shall apply to revegetation efforts:
 - (i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
 - (ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

- (iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
- (iv) Prior to releasing the performance bond, a permanent ground cover must be established over the entire site.
- (v) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (vi) In addition, the remedies and sanctions provided herein, the enforcement of these provisions shall also be subject to the Property Maintenance Regulations, Title 13, Code of the City of Fairview.
- (3) <u>Inspection of Stormwater Management Facilities.</u> Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter.
- (4) Records of Installation and Maintenance Activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City of Fairview during inspection of the facility and at other reasonable times upon request.
- (5) Failure to Meet or Maintain Design or Maintenance Standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of Fairview, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Fairview shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have ten

- (10) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Fairview may take necessary corrective action. The cost of any action by the City of Fairview under this section shall be charged to the responsible party.
- (6) <u>Failure to Meet or Maintain Design or Maintenance Standards as a Violation of the Property Maintenance Regulations.</u> The failure to comply with the provisions of this Title and Chapter shall be a violation of Title 13 of the Code of the City of Fairview, the Property Maintenance Regulations.

14-407. Existing Locations and Ongoing Developments

(1) Right of Entry. The City Manager or their designee may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system, stream(s), natural drainageway(s) or via any other private or public stormwater management system during all reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this ordinance.

(2) <u>On-Site Stormwater Management Facilities Maintenance Agreement.</u>

- (a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.
 - (i) The responsibility for, and costs of, preparing and recording the inspection and maintenance agreement to assure that it is of record within the chain of title at the Register's Office of Williamson County shall be borne by the property owner.
 - (ii) The inspection and maintenance agreement shall expressly reference this code section as well as the Property Maintenance Regulations, Title 13, Code of the City of Fairview

- (b) The maintenance agreement shall:
 - (i) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
 - (ii) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection 14-407(2)(b)(v) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the City of Fairview, and that the cost of such inspection shall be paid by the property owner. It shall also grant permission to the City and its agents to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
 - (iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.
 - (iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule subject to the review and/or amendment by the City of Fairview.
 - (v) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Fairview shall perform the maintenance and repair at its expense and bill the same to the property owner. The

maintenance agreement shall also provide that the City of Fairview's cost of performing the maintenance shall be a lien against the property.

(3) Existing Problem Locations – No Maintenance Agreement.

- (a) The City of Fairview, acting through its City Manager or their designee, shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
- (b) Inspection of Existing Facilities - The City of Fairview, acting through its City Manager or their designee, may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
- (4) <u>Owner/Operator Inspections Generally.</u> The owners and/or the operators of stormwater management practices shall:
 - (a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures

implemented at a site. Owners or operators shall maintain documentation of these inspections. The City of Fairview requires electronic submittal of this documentation by July 1 each year.

- (b) Perform comprehensive inspections of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five-year inspections shall include:
 - (i) Facility type,
 - (ii) Inspection date,
 - (iii) Latitude and longitude and nearest street address,
 - (iv) BMP owner information (e.g., name, address, phone number, fax, and email),
 - (v) A description of BMP condition including vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
 - (vi) Photographic documentation of BMPs, and
 - (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.
- (c) Owners or operators shall maintain documentation of these inspections. The City of Fairview requires submittal of this documentation by July 1 each year.
- (5) Requirements for All Existing Locations and Ongoing Developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:
 - (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in §14-406(2)(c)(i), (ii), (iii) and on a schedule acceptable to the City of Fairview.
 - (b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c)		age ways shall be properly covered in vegetation or secured with rip-rap, el lining, etc., to prevent erosion.
(d)	Trash,	junk, rubbish, etc. shall be cleared from drainage ways.
(e)	the m	water runoff shall, at the discretion of the City of Fairview be controlled to aximum extent practicable to prevent its pollution. Such control measures include, but are not limited to, the following:
	(i)	Ponds 1) Detention pond 2) Extended detention pond 3) Wet pond 4) Alternative storage measures
	(ii)	Constructed wetlands
	(iii)	 Infiltration systems Infiltration/percolation trench Infiltration basin Drainage (recharge) well Porous pavement
	(iv)	Filtering systems 1) Catch basin inserts/media filter 2) Sand filter 3) Filter/absorption bed 4) Filter and buffer strips
	(v)	Open channel 1) Swale

(6) <u>Corrections of Problems Subject to Appeal.</u> Corrective measures imposed by City Staff under this section are subject to appeal under section §14-412 of this chapter.

14-408. Illicit Discharges

- (1) <u>Scope.</u> This section shall apply to all water generated on developed or undeveloped land entering the City's separate storm sewer system.
- (2) <u>Prohibition of Illicit Discharges.</u> No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with section §14-407 shall be an illicit discharge. Nonstormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:
 - (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wetland flows;
 - (xiii) Swimming pools (if dechlorinated typically less than one PPM chlorine, or desalinated for saltwater pools);
 - (xiv) Firefighting activities;
 - (xv) Individual residential car washing (only if water is directed to flow across vegetated area);
 - (xvi) Discharges within the constraints of an NPDES permit from the Tennessee Department of Environment and Conservation (TDEC); (xvii) Any other uncontaminated water source.

- (b) Discharges specified in writing by the City of Fairview as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge if the City of Fairview has so specified in writing.
- (d) Discharges authorized by the Construction General Permit (CGP), which comply with Section 3.5.9 of the same:
 - (i) dewatering of work areas of collected stormwater and ground water (Filtering or chemical treatment may be necessary prior to discharge);
 - (ii) waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;
 - (iii) water used to control dust in accordance with CGP section 3.5.5;
 - (iv) potable water sources including waterline flushing's from which chlorine has been removed to the maximum extent practicable;
 - (v) routine external building washdown that does not use detergents or other chemicals;
 - (vi) uncontaminated groundwater or spring water; and
 - (vii) foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).
- (3) <u>Prohibition of Illicit Connections.</u> The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections

made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (4) Reduction of Stormwater Pollutants by the Use of Best Management Practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
- (5) Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non- hazardous materials, the person shall notify the City of Fairview in person or by telephone or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.
- (6) <u>No Illegal Dumping Allowed.</u> No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the City.

14-409. Water Quality Buffers

(1) <u>Scope.</u> A water quality buffer shall be established, protected, and maintained along all community waters in areas of new development and redevelopment for which a Grading, Site Utilization, and Reclamation Permit, as defined in §14-405, is required in accordance with **Table 3 or Table 4** below, as applicable. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration.

Table 3 – Water Quality Buffer Requirements for Sites That Disturb < 1 acre (no CGP coverage required)				
Community water characteristics	Permanent buffer	During construction (temporary) buffer		
All community waters	20-feet (City-approved buffer enhancement plan required for buffer encroachment)	20-feet (City-approved buffer enhancement plan required for temporary buffer encroachment)		

Community water characteristics	Permanent buffer	During construction (temporary) buffer
Community water drainage area < 1 square mile and not designated as impaired or an Exceptional Tennessee Water (ETW)	30-feet	30-feet (Can be established on an average basis as long as minimum is 15-feet. Cityapproved buffer enhancement plan required for CGP-allowable, temporary buffer encroachment.)
Community water drainage area < 1 square mile and designated as impaired or an Exceptional Tennessee Water (ETW)	30-feet	60-feet (can be established on an average basis as long as minimum is 30-feet)
Community water drainage area > 1 square mile and not designated as impaired or an Exceptional Tennessee Water (ETW)	60-feet (Can be established on an average basis as long as minimum is 30-feet.)	30-feet (Can be established on an average basis as long as minimum is 15-feet. City- approved buffer enhancement plan required for CGP-allowable, temporary buffer
Community water drainage area > 1 square mile and designated as impaired or an Exceptional Tennessee Water (ETW)	60-feet (Can be established on an average basis as long as minimum is 30-feet)	60-feet (Can be established on an average basis as long as minimum is 30-feet)

Note: "Impaired" refers to community water that is impaired for siltation and habitat alteration.

- (a) The buffer width shall be measured perpendicular from the top of bank on each side of the community water channel; around the perimeter of a pond or lake identified as a community water measured as perpendicular to the contour at which normal pool is located around; and around the perimeter of a wetland identified as a community water.
- (b) The water quality buffer is to remain undisturbed except for the following disturbances which are allowed subject to approval by the City Engineer including the approval of an erosion prevention and sediment control plan:

- (i) Limited disturbances to remove and/or plant trees or vegetation, as required to maintain the overall health of vegetation in the buffer area. This includes the removal of invasive exotic plants and the establishment of native vegetation, and/or other practices to restore the ecological integrity of the buffer.
- (ii) Removal of individual trees that are in danger of falling, causing damage to dwellings or other structures, are dead or diseased, or have been heavily damaged by storms. The root wad or stump should be left in place, where feasible, to maintain soil stability.
- (iii) Disturbances necessary for the construction of utility access areas and approved stream crossings as long as the crossings are perpendicular or as near to perpendicular as possible to the channel.
- (iv) Disturbances as required to establish and/or restore buffer areas in accordance with an approved Buffer Enhancement Plan.
- (v) Passive recreation, pervious footpaths, and boardwalks to approach the water resource as approved by the City Engineer and /or Public Works Director.
- (vi) Biking or hiking paths and greenways, but no closer than 30 feet at any measured location. View corridors shall be allowed along greenways as approved by the City Manager or their designee. Paths and greenways shall be designed to prevent the channelization of stormwater runoff and should be constructed of pervious and/or permeable materials. There shall be no other permanent structures with the exception of paths.
- (vii) Stormwater channels as approved by the City Engineer.
- (viii) Floodplain alterations or filling shall not cause a net decrease in flood storage capacity below the projected 100-year flood elevation unless it is shown that the proposed alteration or filling will not cause an increase in the high-water level, increase velocities, or aggravate flooding on other properties and will not unduly restrict flood flows. Compensatory cut shall at least be applied to

150 percent (1.5:1) for all fill in floodplains. Floodplain may be used for application of water quality devices. This may only be permitted provided EP&SC, water quality, and cut-fill policies are adequately addressed as determined by the City Engineer. Detention/retention volumes in the floodplain shall count as fill if applied in a manner where floodplain storage is lost.

- (c) A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.
- (d) Any approved disturbance of the water quality buffer shall be revegetated in kind and/or enhanced subject to the requirements of §14-406 of this ordinance and approval of the acting through its City Manager or their designee. The vegetative target for the inner zone is mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation. Where forest vegetation has the potential to impact traffic safety or limit access, areas immediately surrounding approved stream crossings and utility access areas may be vegetated with dense grasses.
- (e) For any proposed development and/or construction activity within or adjacent to a water quality buffer, the following shall be required.
 - (i) The parameters of the water quality buffer shall be delineated by the applicant and boundaries shall be clearly indicated and labeled on all plats, plans, permits and official maps.
 - (ii) Include a note on plans to reference protective covenants governing all water quality buffer areas, labeled as: "Any water quality buffer is subject to protective covenants recorded in the Register of Deeds (Williamson County). Disturbance and use of these areas is restricted; severe penalties apply."
 - (iii) Water Quality buffers shall be protected during construction activities by a combination of fencing and flagging to prevent entry of construction

equipment, storage and stockpiling. Buffer boundaries shall be marked during construction activities.

14-410. Enforcement

- (1) <u>Enforcement Authority.</u> The City Manager or their designee shall have the authority to issue notices of violation and citations, to issue Cease and Desist orders, and to impose the civil penalties provided in this section. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief. If the person, property or facility has or is required to have a stormwater discharge permit from TDEC, the City shall alert the appropriate state authorities of the violation. Measures authorized include:
 - (a) Verbal Warnings At a minimum, verbal warnings must specify the nature of the violation and required corrective action. Verbal warnings will be documented by the city.
 - (b) Written Notices Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
 - (c) Citations with Administrative Penalties The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.
 - (d) Stop Work Orders Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
 - (e) Withholding of Plan Approvals or Other Authorizations Where a facility is in noncompliance, the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.
 - (f) Additional Measures The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) <u>Notification of Violation</u>.

- (a) Verbal Warning Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.
- (b) Written Notice Whenever the City of Fairview finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City may serve upon such person written notice of the violation. All written notices will be documented and delivered by personal service or by registered or certified mail (return receipt requested) to the person that has violated or is violating this ordinance. Within ten (10) days of this notice or shorter period as may be prescribed in the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City Engineer. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- (c) Consent Orders The City Manager or their designee is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
- (d) Show Cause Hearing The City may order any person who violates this ordinance or permit, or order issued hereunder, to show why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- (e) Compliance Order When the City finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he

may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

- (f) Cease and Desist and Stop Work Orders When the City finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the Stormwater Program Manager or their designee may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:
 - (i) Comply forthwith; or
 - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.
- (g) Suspension, Revocation or Modification of Permit The City of Fairview may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the City. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (h) Conflicting Standards Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the City under this ordinance, the strictest standard shall prevail.

14-411. Penalties

- (1) <u>Violations.</u> Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Fairview, shall be guilty of a civil offense.
- (2) <u>Penalties.</u> Under the authority provided in <u>Tennessee Code Annotated</u> §§68-221-1106, the City declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City of Fairview of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) or such lesser amount as may be allowed by law per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3) <u>Measuring Civil Penalties.</u> In assessing a civil penalty, the Board of Commissioners may consider:
 - (a) The harm done to the public health or the environment;
 - (b) The duration and gravity of the violation(s);
 - (c) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (d) The economic benefit gained by the violator;
 - (e) The amount of effort put forth by the violator to remedy this violation;
 - (f) Whether the violation(s) was committed intentionally;
 - (g) The prior record of the violator in complying or failing to comply with the stormwater management program;

(h)	Anv unusua	I or extraordinary	v enforcement	costs incurred b	ov the C	itv:
١,	,	, , iiiy aiiasaa	i oi catiaoi aiilai	y ciliorecilient	costs intearred k	,, tile e	,

- (i) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (j) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery Of Damages and Costs. In addition to the civil penalty in subsection (2) above, the Board of Commissioners may recover:
 - (a) All damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
 - (b) The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.
- (5) Referral to TDEC. Where the City has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the City has not been successful, the City may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:
 - (a) Construction project or industrial facility location;
 - (b) Name of owner or operator;
 - (c) Estimated construction project or size or type of industrial activity (including SIC code, if known);

- (d) Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.
- (6) Other Remedies. The City may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (7) <u>Remedies Cumulative.</u> The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

14-412. Appeals

Pursuant to <u>Tennessee Code Annotated</u> § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the Commissioners.

- (1) <u>Appeals to be in Writing.</u> The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- (2) <u>Public Hearing.</u> Upon receipt of an appeal, the Commissioners shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation or within the City's monthly newsletter or on the City's website. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the Commissioners shall be final.
- (3) <u>Appealing Decisions of the Commissioners.</u> Any alleged violator may appeal a decision of the Commissioners pursuant to the provisions of <u>Tennessee Code Annotated</u>, Title 27, Chapter 8.

Appendix A

PERMIT

Project Name (Phase, Section):		PC Approval Date:			
Application Date:		Permit Fee:			
	Applicant:				
Name:					
Address:					
Phone:					
E-mail:					
	Property Owner: (If different from applicant)				
Name:					
Address:					
Phone:					
E-mail:					
	Property:				
Address:					
Map & Parcel Number:					
Legal Description Including Benchmark:					
	EPSC Plan Prep	arer:			
Name:					
Address:					
Phone:					
E-mail:					
CPESC/PE No.:					
TDEC Level 2 Cert. Date:					
	Storm Water Management Plan Preparer: (If different from EPSC Plan Preparer)				
Engineer's Name:					
Address:					

Phone:				
E-mail:				
	•			
Co	ontractor and Subc	ontractors:		
(P	erforming land distur	bing activity)		
Name:				
Address:				
Phone:				
E-mail:				
Contractor License #		Expiration Date:		
Workers Comp. #		Expiration Date:		
Name:				
Address:				
Phone:				
E-mail:				
	Project Inform	nation:		
Type of project:		Type of project:		
(Residential or Commercial)		(New or Addition)		
Total area of subject		Area to be		
property:		disturbed:		
Note: If disturbed area = 1 acre o	or more, include a cop	y of the TN Constructi	on General Permit	
Notice of Intent (NOI) submitted	to TDEC and the Stor	m Water Pollution Pre	vention Plan (SWPPP).	
State, federal, or other	□YES	Is a sinkhole	□YES	
appropriate permits required?	□NO	present?	□NO	
Note: If so, attach a copy	of the permits or	Note: If so, provide	a copy of any sinkhole	
applications for the p	ermits.	permits receiv	red from TDEC.	
And almost and beautiful to the state of			YES	
Are streams located within the pr	Are streams located within the property boundaries? □NO			
Note: If so, locate streams on all plans and provide buffers as required by the storm water ordinance.				

Construction and Permanent Stormwater Management - Inspections and Maintenance

From Section 14-405(7) of the City's Stormwater Ordinance 2022-08:

- (a) The City Manager or their designee may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system, stream(s), natural drainageway(s) or via any other private or public stormwater management system during all reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this ordinance.
- (b) EPSC inspections The Grading, Site Utilization, and Reclamation Permit holder shall perform routine inspections as follows:
 - (i) Disturbed areas shall be inspected in conformance with the conditions of the TN Construction General Permit.
 - (ii) Inspections shall be documented, and the documentation provided to the City of Fairview through the City's digital project submittal portal when requested.
 - (iii) All erosion prevention and sediment control measures shall be inspected to ensure that they are functioning as designed.
- (c) All erosion prevention and sediment control measures shall be maintained by the Grading, Site Utilization, and Reclamation Permit holder to ensure that they are functioning as designed. Failure to maintain measures constitutes a violation of this ordinance.
- (d) Permanent stormwater management facilities inspections Permanent stormwater management facilities shall be inspected by the Grading, Site Utilization, and Reclamation Permit holder on a regular basis during construction and by the landowner after construction has been completed to ensure that they are functioning as designed.
 - (i) Inspections shall be documented, and documentation provided to the City of Fairview through the City's digital project submittal portal when requested.
 - (ii) Permanent stormwater facilities shall be maintained by the Grading, Site Utilization, and Reclamation Permit holder during construction and by the landowner after construction has been completed to ensure that they are functioning as designed.

(iii) In addition to those sanctions provided herein, the maintenance of a permanent stormwater facility is subject to the Property Maintenance Regulations, Title 13, Code of the City of Fairview.

I certify that the information provided on this application is true and complete to the best of my knowledge. All provisions of law and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local laws. Construction shall be strictly according to the plans filed with the application for permit. Construction in any way at variance with the plans will be treated as justification for a stop work order, and/or order for removal, and may not be commenced without the approval from the City of Fairview.

I have read the above and agree to abide by the terms thereof.

Name:		Signature:	
	(Owner/Agent)		
Date:			
Comments			

<u>Permanent Stormwater Management - Record Drawings</u>

All applicants are required to submit electronic and digital record drawings for any structures located on-site after final construction is completed. The drawing(s) must show the final design specifications for all stormwater management facilities and must be sealed by the design registered professional engineer on record who is licensed to practice in Tennessee. A final inspection by the City of Fairview's engineering department or designated representative is required before any performance security or performance bond will be released. In addition, occupation permits shall not be granted until corrections to all BMPs and as-built surveys or record drawings have been made and accepted by the City of Fairview.

I have read the above which is from Section 14-406 of the City of Fairview Stormwater Ordinance, Title 14, Chapter 4 and agree to abide by the terms thereof.

Name:(Engineer of Record)	Signature:
	Date:
Name: (Contractor)	Signature:
	Date:
I agree not to move in before the Use	& Occupancy Permit is issued.
Name: Signature: (Own	er) Date:
Comments:	

Grading, Site Utilization and Reclamation Permit (GSURP) Checklist

Applicant's Name:	
Application Date:	

		Location of	N/A
	Project Name:	Information	
1	Two-foot contour interval topographic map at a scale of 1" = 50' including sufficient adjacent parcel topography and structures to ascertain adjacent offsite drainage patterns. Map must extend a minimum of one hundred feet (100') beyond the limits of the proposed development and show the limits of clearing and grading.		
2	Existing contours and conditions (i.e., existing topography and showing the outline of existing structures and pavement indicating any pavement or structures to be removed)		
3	Existing conditions watershed map showing drainage areas to each site outfall (including off-site run-on) and time of concentration paths.		
4	Proposed contours and conditions (i.e., proposed topography tying into existing topography and showing the outline of proposed structures and pavement and details of how the proposed driveway ties to the existing street)		
5	Proposed conditions watershed map showing drainage areas to each permanent Stormwater Control Measure (SCM) and any bypass drainage areas that will flow to the site outfalls (including off-site run-on).		
6	Breakdown of existing and proposed impervious surfaces in table format		
7	Locations of existing drainage ways such as ditches, pipes, streams, intermittent streams, ponds, culverts, sinkholes, wetlands and wet weather conveyances, showing buffers if applicable, within and adjacent to the property as well as the type, size, elevation, etc.		
8	Locations of utility, roadway, and drainage easements within the property		
9	Designated floodways and floodplains, showing elevations		
10	Approximate limits of proposed land disturbing activity (i.e., a boundary line encompassing the location(s) of the proposed land disturbance activity). Examples of land disturbing activities include areas of soil cut or fill, stockpile areas, demolition areas, material and equipment storage areas, access paths to construction activity, contractor parking areas, etc.		

	Project Name:	Location of Information	N/A
11	Proposed erosion prevention & sediment control measures including calculations and details for installation (TDEC Sediment and Erosion Control Manual should be used as a reference for design.)		
12	Seeding specifications, including temporary and permanent seed, soil amendments, mulch, seeding schedule and or sod specifications and		
13	Construction Exit or description of how sediment tracking onto public roads will be prevented.		
14	Note requiring temporary stabilization of disturbed soils in compliance with Section 3.5.3.2 of the Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities		
15	Proposed construction sequence - A description of when EPSC measures are to be implemented in relation to construction milestones and how each SCM will be protected during construction.		
16	Pre- and post-developed hydrologic and hydraulic stormwater runoff calculations must be provided which compare pre-development runoff rates to post- development runoff rates for the 2 through 100-year, 24-hour design storm events.		
17	Locations of proposed drainage network and supporting hydrologic/hydraulic calculations* (including inlet capacity calculations)		
18	Where an increase in the post-developed runoff rate is realized, mitigating the increased flow through a stormwater quantity measure or a series of measures is required. Mitigation of increased flows can consist of onsite detention, longer onsite flow lengths, and/or infiltration. Alternatively, a detailed downstream analysis can be performed. **		
19	Where SCMs are employed that rely on infiltration as a primary discharge mechanism, field verification of infiltration rates per Appendix A of the Tennessee Permanent Stormwater Management and Design Guidance Manual is required.		
20	Location and size of water quality buffer(s). For all projects that disturb <1 acre, a 20 ft buffer is required during construction and permanently. A City approved buffer enhancement plan is required for temporary buffer		
21	encroachment. Land disturbances between 10,000 ft 2 – 0.99 acre shall incorporate, at a minimum, one non-structural water quality improvement measure such as disconnected roof drains, sheet flow of impervious surface runoff, or vegetated filter strips.		

	Project Name:	Location of Information	N/A
22	Include a Maintenance and Repair Plan for all SCM(s) to ensure their continued performance. These plans must identify the parts or components of the SCM(s) that need to be maintained and the equipment and skills or training necessary to complete the maintenance. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the SCM(s).		
23	Infiltration basins, detention ponds, bioretention areas or rain gardens, and other comparable SCM(s) that the City Engineer deems necessary must be contained within a maintenance easement. Maintenance easements must be recorded on the plat and must completely encompass all components of each SCM as well as the access to the SCM.		
24	For sites larger than one (1) acre, coverage under the Construction General Permit (CGP) is required.		
25	Location and size of water quality buffer(s). For all projects that disturb >1 acre, buffer requirements are seen below in Table 4 from the Stormwater Ordinance. A City-approved buffer enhancement plan is required for temporary buffer encroachment.		
26	Runoff Reduction is required. Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters or the public storm sewer system.		
27	Please provide Tennessee Runoff Reduction Assessment Tool (TN RRAT) output and supporting documentation. Supporting documentation will include: • Map showing areas and connectivity of the TN RRAT design elements • Demonstrate proposed SCM(s) (infiltration area, bioretention, etc.) meet the minimum specifications of the Tennessee Permanent Stormwater Management and Design Guidance Manual (Manual)		
28	For projects that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.		

Note:

- * The design of minor stormwater management systems, defined as ditches, drains, pipes, etc., which collect the initial stormwater runoff shall be based on the 25-year storm frequency. The design of the major stormwater management system, defined as large storm sewers, major culverts, bridges, etc., which collect flow from the minor system shall be based on the 100-year storm frequency.
- ** The downstream analysis must be conducted on all components of the receiving system to the point at which the total subject site represents 10% or less of the encompassing watershed. The analysis shall be performed for the 2- through 100-year storm events. (The city may request analysis of a shorter duration storm event as well). The analysis shall evaluate the effects of the post-developed flow increase on downstream receiving properties and structures including but not limited to roadside swales, culverts, curb and area drains, etc. The analysis shall demonstrate no adverse impacts upon the downstream receiving properties and structures including adequate hydraulic capacity of the structures.

Community water characteristics	Permanent buffer	During construction (temporary) buffer	
Community water drainage area <1 square mile and <u>not</u> designated as impaired or an Exceptional Tennessee Water (ETW)	30-feet	30-feet (Can be established on an average basis as long as minimum is 15-feet. City approved buffer enhancement plan required for CGP-allowable, temporary buffer enchroachment.)	
Community water drainage area <1 square mile and designated as impaired or an Exceptional Tennessee Water (ETW)	30-feet	60-feet (Can be established on an average basis as long as minimum is 30-feet.)	
Community water drainage area >1 square mile and <u>not</u> designated as impaired or an Exceptional Tennessee Water (ETW)	60-feet (Can be established on an average basis as long as minimum is 30-feet.)	30-feet (Can be established on an average basis as long as minimum is 15-feet. City approved buffer enhancement plan required for CGP-allowable, temporary buffer enchroachment.)	
Community water drainage area >1 square mile and designated as impaired or an Exceptional Tennessee Water (ETW)	60-feet (Can be established on an average basis as long as minimum is 30-feet.)	60-feet (Can be established on an average basis as long as minimum is 30-feet.)	

Note: "Impaired" refers to community water that is impaired for siltation and habitat alteration.

ORDINANCE 2024-15

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF FAIRVIEW, TENNESSEE.

WHEREAS some of the ordinances of the City of Fairview are obsolete, and

WHEREAS some of the other ordinances of the City of Fairview are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Commissioners of the City of Fairview, 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 "Fairview Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF FAIRVIEW, AS FOLLOWS:1

<u>Section 1.</u> <u>Ordinances codified</u>. The ordinances of the City of Fairview 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 "Fairview Municipal Code," hereinafter referred to as the "Municipal Code."

<u>Section 2. Ordinances repealed</u>. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in

¹Charter reference

Tennessee Code Annotated, § 6-20-214.

favor of said city; 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 city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

<u>Section 4.</u> 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

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted, and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

<u>Section 8.</u> 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.

<u>Section 9. Code available for public use</u>. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see <u>Tennessee Code Annotated</u>, § 40-24-101 <u>et seq</u>.

Section 10. Date of effect. This ordinance shall take effect no sooner than fifteen (15) days after first passage thereof, provided that it is read two (2) different days in open session before its adoption, and not less than one week elapses between first and second readings, the welfare of the city 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 August 15, 2024.

Passed 2nd reading Stylmbur 19, 2011.

Public hearing held on September 19, 2024.

Mayor

Popular Popular

APPROVED AS TO FORM:

City Attorney