

**THE
NEW TAZEWELL
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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TOWN OF NEW TAZEVELL, TENNESSEE

MAYOR

Jerry H. Beeler

VICE MAYOR

Phil Greer

ALDERMEN

Samuel "Andy" Duncan

Franklin Essary

Stanley Leonard

Jeff Lewis

Nita Louthan

RECORDER

Hershel Beeler

PREFACE

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).

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

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

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

The able assistance of the codes team, Emily Keyser, Linda Winstead and Nancy Gibson is gratefully acknowledged.

Stephanie Allen
Codification Consultant

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

6-2-101. Publication of ordinances--Codification.--Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. [Acts 1991, ch. 154, § 1.]

6-2-102. Ordinance procedure.--An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. [Acts 1991, ch. 154, § 1; Acts 1998, ch. 621, § 1.]

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

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

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Compensation.
- 1-105. Term of office.
- 1-106. Election of aldermen; change of election date.
- 1-107. Approval of employment decisions; compensation of officers and employees.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:30 P.M. on the second Tuesday of each month at the town hall. (1998 Code, § 1-101)

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Approval or correction of minutes of the previous meeting.
- (4) Citizen comments.
- (5) Communications from the mayor.

¹Charter references

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

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

- (6) Reports from committees, aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1998 Code, § 1-102, modified)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1998 Code, § 1-103, modified)

1-104. Compensation. The mayor and each aldermen shall receive an amount established in the annual budget. The compensation of the aldermen and mayor may not be diminished during their term of office.¹ (1998 Code, § 1-104, modified)

1-105. Term of office. The town is divided into three (3) wards as shown on the ward map of record in the recorder's office.² Every two (2) years one (1) alderman is elected from each ward by the voters at large for four (4) year terms. The mayor is also elected for a four (4) year term.³ (1998 Code, § 1-105, modified)

1-106. Election of aldermen; change of election date. (1) The terms of the three (3) aldermen elected in December 2008 shall be extended from the second Saturday in December 2012 until the certified candidates, elected on the Tuesday after the first Monday in November 2014, are sworn into office. This will result in an increase of approximately twenty-three (23) months in the terms of the aldermen elected in December 2008. Thereafter, elections will be held for these seats for a four (4) year term beginning with the elections held in November 2014.

(2) The terms of office of the mayor and three (3) aldermen elected in December 2010 shall be extended from the second Saturday in December 2014 until the certified candidates, elected on the Tuesday after the first Monday in November 2016, are sworn into office. This will result in an increase of

¹Charter reference
Compensation: § 6-3-109.

²State law reference
Tennessee Code Annotated, §§ 6-54-101 and 6-54-102.

³Charter reference
Election of mayor and aldermen: § 6-3-101.

approximately twenty-three (23) months in the terms of the aldermen elected in December 2010. Thereafter, elections will be held for these seats for a four (4) year term beginning with the elections held in November 2016. (Ord. #261, June 2007)

1-107. Approval of employment decisions; compensation of officers and employees. (1) The board of mayor and aldermen shall approve all employment, promotions, disciplinary actions, suspensions and discharges of any employees or department heads in accordance with the personnel policies and procedures that have been adopted or may be adopted by the board.

(2) Compensation of all employees of the town shall be made by the board and adopted as part of the annual budget of the town. (Ord. #2007-259, March 2007, modified)

CHAPTER 2

MAYOR¹

SECTION

- 1-201. Generally supervises town's affairs.
- 1-202. Executes town's contracts.
- 1-203. Power to declare a state of emergency.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities.² (1998 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1998 Code, § 1-202)

1-203. Power to declare a state of emergency. The mayor or vice-mayor in the mayor's absence, may declare a state of emergency for the Town of New Tazewell. (Ord. #2012-302, Aug. 2012)

¹Charter references

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

Vacancies in office: § 6-3-107.

Vice-mayor: § 6-3-107.

²Charter reference

Duties of mayor: § 6-3-106.

CHAPTER 3**RECORDER¹****SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder shall be bonded in such sum and with such surety as may be acceptable to, the board of mayor and aldermen before assuming the duties of his office. (1998 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1998 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1998 Code, § 1-303)

¹Charter references

Recorder: § 6-4-201, et seq.

Recorder as treasurer: § 6-4-401(c).

CHAPTER 4

CODE OF ETHICS¹

SECTION

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

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.

1-401. Applicability. This chapter is the code of ethics for personnel of the Town of New Tazewell. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the town. The words "municipal" and "municipality" include these separate entities. (Ord. #2007-260, June 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #2007-260, June 2007, modified)

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

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

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

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

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #2007-260, June 2007)

1-407. Use of municipal time, facilities, etc.¹ (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 town. (Ord. #2007-260, June 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the town. (Ord. #2007-260, June 2007)

1-409. Outside employment. Employees are required to obtain approval from the town mayor before accepting or performing any outside employment.

If at any point the secondary job duties change, the employee is required to obtain approval from the town before engaging in the secondary employment activities.

¹Municipal code reference
Political activity: § 4-106.

Generally, the town must be considered the employee's primary employer. While the outside employment policy is not intended to restrict an employee's personal rights, the employee's employment with the town takes precedence in all matters involving work issues. Outside employment is not considered a valid reason for absenteeism, tardiness, or poor job performance.

Employees missing work because of sickness or injury that can be attributed to a second job will not receive pay or other normal benefits for time lost from their local government job. Approval of a second job may be withdrawn for any of the above reasons. Employees may not use any property belonging to the local government in the course of his/her second job.

1-410. Ethics complaints. (1) The town attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

(b) The town attorney may request the 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 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 town attorney or another individual or entity chosen by the governing body.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #2007-260, June 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or

other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #2007-260, June 2007)

CHAPTER 5**TOWN ADMINISTRATOR**¹**SECTION**

1-501. Administration

1-501. Administration. The town administrator shall perform the following duties:

- (1) Administer the business of the municipality;
- (2) Make recommendations to the board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the municipality;
- (3) Keep the board fully advised as to the conditions and needs of the municipality;
- (4) Report to the board the condition of all property, real and personal, owned by the municipality and recommend repairs or replacements as needed;
- (5) Recommend to the board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;
- (6) Recommend specific personnel positions, as may be required for the needs and operations of the municipality, and may propose personnel policies and procedures for approval of the board; and
- (7) Perform such other duties as may from time to time be designated or required by the board.

¹Charter reference
City administrator: § 6-4-101.

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

2-101. Created.

2-102. Powers and duties.

2-103. Membership and compensation.

2-104. Organizations and meetings.

2-101. Created. The New Tazewell Recreation Advisory Board (herein referred to as the "board") is hereby created and shall be organized and operated as follows. (1998 Code, § 2-101)

2-102. Powers and duties. It shall be the duty of the board to study all matters relating to the development, maintenance and use of recreation facilities and make recommendations to the New Tazewell Board of Mayor and Aldermen regarding such matters in accordance with Tennessee Code Annotated, § 11-24-103 (b) (1). (1998 Code, § 2-102)

2-103. Membership and compensation. The board shall consist of five (5) persons to be appointed by the mayor and to serve for terms of one (1) calendar year. Two (2) of the five (5) recreation board appointments are to be members of the board of mayor and aldermen. Vacancies in such board shall be filled only for the unexpired terms and such appointment shall be made by the mayor. There shall be no compensation for service on the board. (1998 Code, § 2-103, modified)

2-104. Organizations and meetings. The board shall elect from its appointed members a chairman, a vice-chairman and a secretary. The terms of office shall be for one (1) year. The board shall meet in regular session on a quarterly basis. Meetings may also be called by the board chairman as the need arises. (1998 Code, § 2-104, modified)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

- 3-101. Town judge.
3-102. Jurisdiction.

3-101. Town judge. The current (2011) town judge is the town administrator. Upon his departure, the following will apply:

(1) Appointment. The officer designated by the charter to handle judicial matters within the town shall preside over the town court and shall be known as the town judge.

(2) Salary. The salary of the town judge shall be established in the annual budget. (1998 Code, § 3-101, modified)

3-102. Jurisdiction. The town 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 under the general penalty provision of this code.

¹Charter references

City judge--city court: § 6-4-301.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

3-203. Disposition and report of fines, penalties, and costs.

3-204. Contempt of court.

3-205. Trial and disposition of cases.

3-201. Maintenance of docket. The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected, and all other information that may be relevant. (1998 Code, § 3-201, modified)

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

The court cost to be used by the town judge in assessing the bill of costs in cases in the town court shall be one hundred dollars (\$100.00), including the state litigation taxes. Such court cost shall be in addition to any special court costs that may be assessed under the provisions of the municipal charter. One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. (1998 Code, § 3-202, as amended by Ord. #243, May 2005, modified)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1998 Code, § 3-203)

3-204. Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00) or such lesser amount as may be imposed in the judge's discretion.

3-205. Trial and disposition of cases.¹ Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1998 Code, § 3-205)

¹Municipal code reference

Disposition of persons arrested: § 6-105.

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1998 Code, § 3-301)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1998 Code, § 3-302)

3-303. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1998 Code, § 3-303)

¹State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

3-401. Appearance bonds authorized. When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1998 Code, § 3-401)

3-402. Appeals. Any person who is dissatisfied with any judgment of the town court against him may, within ten (10) entire days thereafter, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ "Person" as used in this section includes but is not limited to a natural person, corporation, business entity or the town. (1998 Code, § 3-402, modified)

3-403. Bond amounts, conditions, and forms. (1) An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable.

(2) A bond is not required provided the defendant/appellant:

(a) Files the following oath of poverty:

"I, _____ do solemnly swear under penalties of perjury, that owing to my

¹State law reference

Tennessee Code Annotated, §§ 27-5-101 and 16-18-307.

poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief."

(b) Files an accompanying affidavit of indigency. (1998 Code, § 3-403, modified)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL POLICIES.
2. USE OF INTERNET AND ELECTRONIC MAIL.

CHAPTER 1

PERSONNEL POLICIES

SECTION

- 4-101. Personnel policies.
- 4-102. Types of employees.
- 4-103. Employment.
- 4-104. Leave policies.
- 4-105. Benefits.
- 4-106. Miscellaneous policies.
- 4-107. Workplace violence and sexual harassment.
- 4-108. Separations and disciplinary actions.
- 4-109. Amendments to the personnel rules.

4-101. Personnel policies. (1) Purpose and objectives. The main purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among town government employees fostered by a systematic application of good procedures in personnel administration. Another purpose is to provide uniform policies for all employees with all the benefits such a program ensures, without regard to race, gender, age, national origin, creed, ancestry, and disability.

The Town of New Tazewell is an at-will employer and nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their jobs than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees.

(2) Coverage. These rules and regulations shall cover all employees in the town service unless specifically exempt by this document, the town charter, and/or the ordinances of the town without regard to race, religion, national origin, political affiliation, sex, age, or disability. Employees/positions not covered under this policy are as follows:

- (a) Elected officials;
- (b) Members of appointed boards or commissions;
- (c) Town attorney;

- (d) Consultants, advisors and independent contractors;
- (e) Volunteer personnel;
- (f) Town mayor;
- (g) Town judges. (Ord. #2010-282, March 2010)

4-102. Types of employees. (1) Full-time. Full-time employees are individuals employed by the town who regularly work a minimum of forty (40) hours per week on a year round basis.

(2) Part-time. Part-time employees are individuals employed by the town who regularly work less than forty (40) hours per week on a year round basis.

(3) Temporary/seasonal. Employees are considered seasonal or temporary when hired for a stated or specific term of employment of less than one (1) year. (Ord. #2010-282, March 2010)

4-103. Employment. (1) Policy statement. The primary objective of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities.

(2) Application and background check. (a) All persons seeking appointment or employment with the municipality must complete a standard application form provided by the municipal government. Applications for employment shall be accepted in the recorder's office during regular office hours only.

(b) All regular, full-time and part-time external candidates for employment of the Town of New Tazewell, as well as potential re-hires with a break in service, must undergo a pre-employment background investigation. This includes but is not limited to:

- (i) Social Security verification;
- (ii) Prior employment verification;
- (iii) Education verification (highest level);
- (iv) Residence verification;
- (v) Criminal background investigation; local, state and federal;
- (vi) Sexual offender database search.

(c) In addition, candidates for designated positions may also be subject to the following additional types of checks, depending on the requirements of the position:

- (i) Motor vehicle record;
- (ii) Professional reference checks;
- (iii) State/federal civil litigation, lien and judgments;
- (iv) Credit verification;
- (v) Corporate filing and status search;

(vi) Professional licensing check.

(3) Interviews. All appointments will be preceded by an interview with the designated hiring authority.

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

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

(6) Work week/work periods. Pursuant to the Fair Labor Standards Act (FLSA), a work week is a regular recurring period of one hundred sixty eight (168) hours consisting of seven (7) consecutive twenty-four (24) hour periods. Generally, five (5) days per week constitute a work week for regular employment. Public safety employee schedules may entail more or less days in the work week. As necessary, schedules will vary in departments for the smooth operation of the local government. A standard work week is scheduled between 8:00 A.M. Monday through 5:00 P.M. the following Friday.

(7) Hourly rates. Employees paid on an hourly basis are paid for all time actually worked.

(8) Minimum wages. In accordance with the FLSA, no employee, whether full-time, part-time, or probationary period employee, will be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations.

(9) Overtime. The Fair Labor Standards Act (FLSA) requires all employers to compensate their FLSA non-exempt employees with time and a half for all hours worked over forty (40) in the work week. Compensable time includes all time in which the employee is required to work for the local government. Generally, uninterrupted lunch periods, annual and/or sick leave, compensatory time and any time in which the employee is not working will not be considered working time and will not be counted toward overtime.

When it becomes necessary for an employee to work overtime hours or return to duty from off-duty hours due to an emergency, regular employees, part-time employees, and temporary employees shall be paid according to the prevailing salary schedule. Applicable overtime work will be compensated according to the FLSA provisions at a rate of one and a half (1 1/2) times the employee's regular rate. Overtime work may also be paid with compensatory time at a rate of one and a half (1 1/2) times the hours worked in accordance with the FLSA. Generally, overtime work must be authorized by the mayor.

In pursuance with FLSA, compensatory time may be given in lieu of overtime. All overtime will be paid in accordance with the FLSA.

(10) Compensatory time. Compensatory time is time off with pay earned by an employee when compensable overtime hours are worked and not compensated in cash.

Maximum accrual on compensatory time is two hundred forty (240) hours.

The town may request that employees use their compensatory time within a specified time period. Additionally, the town may require employees to use compensatory time before using annual, sick or other types of paid leave.

Supervisors are required to keep regular and accurate records of all overtime hours worked.

(11) Call back. When an employee is called back to work, he or she shall be guaranteed a minimum of two (2) hours of pay at his/her applicable wage rate. (Ord. #2010-282, March 2010)

4-104. Leave policies. (1) Paid holidays. The following days are considered paid holidays for all full-time employees. These days will be taken without loss of vacation credit, except for those employees required to maintain operations who receive holiday pay for working on such days.

Eligibility: All regular full-time employees are eligible for paid holidays.

The paid holiday schedule is as follows:	
New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Good Friday	Friday before Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11 (option)
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Day after Thanksgiving (option)
Christmas Eve	December 24
Christmas	December 25
*Holidays marked "option" will be at the discretion of the department with town approval.	

The Town of New Tazewell reserves the right to revise the holiday schedule at any time.

When a paid holiday falls on Saturday, the holiday will be observed on the preceding Friday. When a holiday falls on Sunday, it will be observed the

following Monday. Where possible, every full-time town employee will observe approved holidays.

If the holiday falls on a day when the employee is scheduled to work fewer hours than the holiday credit hours the employee receives he/she may take the remaining hours another day.

Example: The chart says the employee will receive five (5) hours of holiday credit, but on the day of the holiday the employee is only supposed to work three (3) hours. The employee is still "owed" two (2) hours and he/she needs to take them on another day within the same pay period.

If the holiday falls on a day when the employee is scheduled to work more hours than the holiday credit you will receive, you need to "make up" those hours.

Example: The chart says the employee will receive five hours of holiday credit, but on the day of the holiday the employee is supposed to work six (6) hours. For that day the employee is paid for five (5) hours, but he/she missed six (6) hours of work. The employee will need to work the hour missed. The employee may either work an additional hour on another day in the same pay period, or he/she may choose to use vacation leave for that hour.

The employee will need to arrange any schedule changes with his/her supervisor and receive advance approval.

(2) Vacation leave. Vacation leave is a personal leave benefit granted to full-time employees as part of the town's benefits package. Vacation leave will be granted to regular full-time employees, but may not be taken until the employee has completed one (1) year of service. Vacation leave is to be taken following the period of time in which it is earned. Vacation time will be calculated according to the following schedule:

(a) Eligibility. All regular full-time employees are eligible for vacation.

(b) Waiting period. All new employees are required to wait one (1) full year before earning vacation leave.

(c) Compensatory time. If the employee has accrued compensatory time, all compensatory leave shall be used before vacation leave begins.

Vacation leave will be calculated according to the following schedule:

FULL-TIME EMPLOYEES--VACATION LEAVE SCHEDULE		
Years of service	Hours earned per year	Days per year
1-5	40 hours	5 days
6-10	80 hours	10 days
11-20	120 hours	15 days
All over 20	160 hours	20 days

For leave purposes, the service an individual has to his/her credit includes all time spent as a full-time employee of the municipality.

Vacations will be scheduled in advance for the mutual convenience of the employee and the town government so proper adjustments can be made in the work schedules. Department heads preparing vacation schedules will give choice of dates based on seniority of the personnel in their departments, and no employee may begin his/her annual leave until his/her request has been approved by the department head.

An employee who is separated from town employment shall be paid for his/her unused vacation leave on a regular pay-period basis. The termination date shall coincide with last date of pay. In no event will an employee who has not completed at least one (1) year of satisfactory service receive terminal vacation pay.

Legal holidays falling within a vacation period are not to be counted as vacation days. Employees eligible for more than two (2) weeks' vacation, have the option of taking two (2) weeks' vacation time and/or the remainder earned time in vacation time or in pay, which must be approved by the department head. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no annual leave accumulates. Employees may not borrow against future annual vacation or transfer earned leave to another employee.

(3) Sick leave. (a) Sick leave is a benefit granted to full-time employees as part of the town's benefits package. Sick leave is not considered as a right that the employee may use at his discretion, but rather as a privilege. Sick leave is a benefit to be used for legitimate sick leave purposes. Sick leave is not an employee entitlement but a benefit that is employer owned.

(i) Eligibility. All regular full-time employees are eligible for sick leave.

(iii) Waiting period. Employees are required to successfully complete their probationary period before being eligible to use sick leave.

(iii) Compensatory time. If the employee has accrued compensatory time, all compensatory leave shall be used before sick leave begins.

(b) Sick leave is a period of absence with pay granted when the employee is unable to work due to sickness or injury. Sick leave with pay may be granted for the following reasons:

(i) Employees are incapacitated by sickness or a non-job-related injury, or they are seeking medical, dental, or optical diagnosis and treatment.

(ii) Necessary care and attendance of a member of the employee's immediate family and approved by a department head and town mayor.

(iii) Necessary care and attendance of a member of the employee's immediate family is approved by the employee's department head. Immediate family members are: husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather, grandmother, legal foster parents, children and step-children.

(c) When an employee is absent due to reasons as provided in this section in order to be granted sick leave with pay, he/she must notify his/her immediate supervisor prior to the beginning of the scheduled work day of the reason for absence. The town's department heads may require a doctor's certificate or other satisfactory evidence that absences are properly chargeable as sick leave.

(d) Health care provider's statement. To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's certificate, and any absence in excess of three (3) work days may also require a doctor's certificate to return to work (if, in the opinion of the immediate supervisor, such action is deemed appropriate).

Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled days off. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no sick leave accumulates.

An eight (8) hour absence from work while on sick will constitute a charge of one (1) day of sick leave for all employees.

After employees have exhausted their accrued sick leave, leave (with or without) pay may be granted at the discretion of the town administrator as a reasonable accommodation to disabled people. Also, employees may be placed on special leave without pay, or they may be terminated if unable to perform their job or another job with or without a reasonable accommodation. Should employees later be able to return to work, upon presentation of certification by a doctor, they shall be given preference for employment in a position for which they are qualified, with the approval of a jurisdictional elected official or a department head.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. An employee, upon exhausting all earned sick leave, may use earned vacation leave or take leave without pay. Only the governing body, by a majority vote in a regular meeting, may make exceptions to leave policy due to unusual and/or extenuating circumstances.

An employee who retires under the town retirement plan shall have all unused sick leave credited as additional time worked when calculating the employee's retirement benefits.

(e) Full-time employees—sick leave schedule. Each regular employee will accrue sick leave at the rate of one (1) day (eight (8) hours) per month. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains. Employees may accumulate thirty (30) sick days for use; any days over thirty (30) will be applied to retirement.

Years of service	Hours earned per year	Hours earned per month
n/a	96	8

Each day deducted from an employee's sick leave accumulation will be for a regular work day and will not include holidays and scheduled days off. Employees claiming sick leave while on vacation leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no sick leave accumulates.

Upon retirement under the Tennessee Consolidated Retirement System, an employee's accumulated sick leave will add retirement credit. Each twenty (20) days of accumulated sick leave will add one (1) additional month of retirement credit to the employee's total retirement service credit. This is subject to change. Check with TCRS for updates to this policy.

(4) Military leave. All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding twenty (20) working days in any one (1) calendar year.¹ Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with Veterans' Re-employment Rights (38 U.S.C. § 202-2016) and the Tennessee Military Leave Act.²

(5) Jury service leave. When an employee receives a summons to report for jury duty, the employee is required to provide a copy of the summons to his/her immediate supervisor within one (1) business day of receiving the summons. Upon presentation of the summons, the employee will be excused from employment for the day or days required of the employee while serving as a juror in any court of the United States or the State of Tennessee; provided,

¹State law reference
Tennessee Code Annotated, § 8-33-109.

²State law reference
Tennessee Code Annotated, § 8-33-101, et seq.

that such employee's responsibility for jury duty exceeds three (3) hours during the day for which excuse is sought.

Upon release from jury duty during the employee's normal working hours, he/she is expected to return to duty. Employees will receive full pay during jury service. The town will pay the employee's usual compensation but may deduct an amount equal to the fee or compensation the employee received for jury service.

If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, the employee is also excused from employment as provided by this section for the shift immediately preceding the employee's first day of service on any jury trial. After the first day of service, when the employee's responsibility for jury duty exceeds three (3) hours during a day, then he/she is excused from the next scheduled work period occurring within twenty-four (24) hours of jury service. Any question concerning the application of the provisions of this subsection to a particular work shift or shifts will be conclusively resolved by the trial judge of the court to which the employee has been summoned.

(6) Court duty leave. An employee who is summoned or subpoenaed to appear because of the employee's duties for the town will be granted leave with pay upon presentation of such summons or subpoena. When a town employee is requested by the office of the town attorney to appear in court on behalf of the Town of New Tazewell, the employee must appear and the employee will have the same benefits as though the employee was summoned or subpoenaed. When an employee has been granted leave for court attendance and is excused by proper court authority, the employee must report back to the employee's place of duty.

(7) Bereavement leave. It is the policy of the town to provide all regular, full-time and part-time employees time off without loss of pay due to the death of an immediate family member as defined below.

An employee who is absent during his/her regularly scheduled work week due to the death of an immediate family member will receive payment for reasonable and customary days absent, not to exceed three (3) regularly scheduled work days. Immediate family includes:

- (a) Spouse;
- (b) Child, step-child;
- (c) Parent, step-parent, foster parent, parent-in-law;
- (d) Sibling(s); and
- (e) Grandparents and grandchildren.

In addition to the three (3) regularly scheduled work days, sick leave not to exceed two (2) days may be granted at the discretion of the appropriate approving authority in the instance of death of one (1) of the immediate family members listed above.

Employees will be granted this leave without deduction from their vacation or sick leave balances.

The town mayor will be responsible for administering final approval on bereavement leave requests. Employees are required to submit, in writing a request to the town mayor and provide a copy of that request to their immediate supervisor and department head.

(8) Inclement weather leave. It is the town's intent to remain open through all weather situations unless determined that the essential functions of the town cannot be safely administered. This decision will be made by the town mayor and communicated via all supervisors.

However, when weather conditions appear to be so severe that an employee fears for his/her safety in traveling to or from the work site, he/she may be absent with leave if the following conditions are met:

(a) The employee informs his/her immediate supervisor of his/her absence and the reason for it as soon as possible.

(b) The employee reports to work immediately if a change in weather conditions allows safe transportation to the work site.

(c) The employer deducts the missed work day (or portion thereof) from accumulated vacation leave. Reporting this leave will follow the same requirements as other leave.

The policy is meant for those who are in immediate danger due to weather conditions only. Should any employee abuse this policy, he/she may be subject to disciplinary action. In situations where advanced notice of closure is known, the town mayor will communicate such closure via radio, newspaper, departmental memo, etc. (Ord. #2010-282, March 2010)

4-105. Benefits. A list of current benefits is available from the Town of New Tazewell. (Ord. #2010-282, March 2010)

4-106. Miscellaneous policies. (1) Attendance. Punctual and regular attendance is necessary for the town to operate efficiently. Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor prior to the beginning of the work day, unless unusual circumstances prevent the employee from making proper notification. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. An inappropriate pattern of absences will not be tolerated.

(2) Occupational safety and health.¹ The municipality shall provide job safety and health protection for all employees in accordance with the Occupational Safety and Health Administration (OSHA) Legislation (29 U.S.C. § 656, et seq.) and the Tennessee OSHA Law (Tennessee Code Annotated, § 50-3-101, et seq.).

¹OSHA Rules and Regulations for the Town of New Tazewell (and any amendments) are available in the office of the recorder.

- (3) Commercial driver's license. All employees that drive:
- (a) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;
 - (b) A trailer with a gross weight of more than ten thousand (10,000) pounds;
 - (c) A vehicle designed to transport more than fifteen (15) passengers, including the driver; and
 - (d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, § 55-50-101, et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

(4) Employee drug testing. (a) Safety-sensitive positions. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety Act (49 C.F.R. part 199). Other employees may be subject to drug testing in accordance with the drug testing policy of the municipality.

"Safety-sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children.

(b) Types of tests. (i) Pre-employment. All employment applicants who have received a conditional offer of employment with the Town of New Tazewell must submit to a drug test before receiving a final offer of employment.

(ii) Transfer. Employees starting or transferring to a safety-sensitive position shall undergo drug testing. "Safety-sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children.

(iii) Post-accident/post-incident testing. Note: All employees are subject to post-accident drug testing.

Following any workplace accident (incident) determined by supervisory personnel of the Town of New Tazewell to have resulted in property or environmental damage or in personal

injury, including but not limited to a fatality or human injury requiring medical treatment, any employee whose performance either contributed to the accident (incident) or who cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident (incident) will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within thirty-two (32) hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by the same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the Town of New Tazewell reserves the right to direct the Medical Review Officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(iv) Testing based on reasonable suspicion. Note: All employees are subject to reasonable suspicion testing.

A drug test is required for any employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent physical, behavioral or performance indicators of possible drug use. One (1) supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of New Tazewell making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the town mayor within twenty-four (24) hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(v) **Random testing.** Only employees of the Town of New Tazewell holding safety-sensitive positions are subject to random drug testing. "Safety-sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the Town of New Tazewell to perform annually random tests for drugs in accordance with DOT regulations for those positions requiring a Commercial Driver's License (CDL).

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced and occur with predictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the Town of New Tazewell may omit that employee from random testing or await the employee's return to work.

Positive results may result in disciplinary action, up to and including immediate termination of employment.

(5) **Leave of absence (with or without pay).** If the employee exhausts all his/her annual and sick leave and still needs time off for personal or health reasons, he/she may apply for a leave of absence for a period of up to three (3) months if he/she is a full-time employee. The request for leave must be given to the employee's immediate supervisor and the department director at least thirty (30) days prior to the start of the requested leave unless the leave is an emergency.

(6) **Political activity.**¹ No employee may participate in any campaign for an elective office, or campaign concerning any issue which may appear on an election ballot, during working hours or when on duty. No employee may participate in campaign activities while wearing a town uniform or driving a town-owned vehicle. Town employees are prohibited from using their employment status or official authority to influence voters while participating in political campaigns.

¹Municipal code reference

Use of municipal time, facilities, etc.: § 1-407.

Employees enjoy the same rights as other citizens to participate in political campaigns and to be a candidate for state or local political office. Any time off from work used to participate in political activities must be limited to earned days off.

There is no authorization for town employees to run for elective office with the Town of New Tazewell. Any employee who desires to run for a town office must terminate their employment with the Town of New Tazewell.

(7) Travel reimbursement. All trips that involve reimbursement and/or town government expense will not be undertaken without prior approval of the appropriate department head. Mileage, food, lodging, and other expenses are reimbursed at the same rate as the State of Tennessee.

(8) Driving records. Any employee who is required as an employment condition to possess and maintain a valid Tennessee driver's or commercial driver's license must immediately, before reporting for duty the next work day, inform his/her supervisor should his/her license become denied, expired, restricted, suspended, or revoked any time during employment with the town. Periodic review of employees' driving records will be conducted by the town mayor to assure adherence to this policy.

(9) Solicitation. Unauthorized solicitation of employees on the premises is strictly prohibited. This prohibition applies both to employees and outsiders. Solicitation of gifts (for such occasions as resignations, retirements, weddings, and births) are considered authorized.

Contributions may be solicited on town property only with the permission of the town mayor. Miscellaneous solicitation of contributions within a single department may be made with the permission of the department head.

No pressure is to be placed on any employee to make any contributions.

(10) Personal communication.¹ Use of cellular phones/text messaging during regular work hours, except in emergency cases, is discouraged. Personal calls/text messages that must be made or received during business hours are permitted if they are held to a minimum and do not interfere with the employee's work. Personal communications should be made during breaks or lunch time when possible.

When using office phones, long-distance emergency calls must be billed to the caller's home phone number or reimbursed by the employee making the call. Excessive phone conversations on non-emergency matters may result in disciplinary action.

Employees shall not operate cell phones or text message while operating a vehicle on town business.

¹Municipal code reference

Personal communication: § 4-202(5).

(11) Fighting, horseplay, damaging town government property. Fighting, horseplay, and intentionally defacing or damaging town property may subject violators to disciplinary action.

(12) Non-Smoker Protection Act. The town complies with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and town-owned vehicles. All employees who operate town-owned vehicles are prohibited from smoking in the vehicle or piece of equipment. This includes other occupants that may be being transported in the vehicles.

(13) Misuse of town property. Misuse of town property violates the values of integrity, respect, and continuous improvement of the town. Misuse of property may include, but is not limited to, misusing or taking broad property or the property of others without permission, or misusing or misappropriating funds, misuse of copyrighted material, vandalism, embezzlement, using town resources/positions, business cards/identification/security badges for unauthorized business or personal reasons or personal gain. (Ord. #2010-282, March 2010, modified)

4-107. Workplace violence and sexual harassment. (1) General workplace harassment and violence.

(a) It is the policy of the Town of New Tazewell to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the local government's activities. The Town of New Tazewell will not tolerate verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment.

(b) No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:

(i) Verbal harassment. Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive flirtations or propositions; verbal intimidation, exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.

(ii) Physical harassment. Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.

(iii) Visual harassment. Displaying derogatory or offensive posters, cartoons, publications or drawings.

(c) Under no circumstances are the following items permitted on local government property, including local government-owned parking

areas, except when issued or sanctioned by the local government for use in the performance of the employee's job:

- (i) All types of firearms, switchblade knives and knives with a blade longer than four inches (4");
- (ii) Dangerous chemicals;
- (iii) Explosives or blasting caps;
- (iv) Chains; or
- (v) Other objects carried for the purposes of injury or intimidation.

(d) Charges of violence and harassment may be reported to any supervisory employee of the local government, including the recorder or the mayor. The mayor or designee is charged with investigating all cases of workplace violence and harassment. Depending on the severity of the charges or whether a crime is committed, the mayor may request that another professional provide assistance to the Town of New Tazewell and/or assume responsibility for the investigation. All employees are required to assist in the course of the investigation by providing testimony, statements and evidence, as required. Failure to cooperate may result in disciplinary action.

(e) Copies of the investigative report with recommendations for appropriate action will be turned over to the mayor as appropriate for further action. Disciplinary action may be taken against any employee who commits acts of workplace violence and harassment.

(2) Sexual harassment. The following actions constitute an unlawful employment practice and are absolutely prohibited by the local government when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

- (a) Sexual harassment or unwelcome sexual advances;
- (b) Requests for sexual favors;
- (c) Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
- (d) Explicit or implied job threats or promises in return for submission to sexual favors;
- (e) Inappropriate sexually-oriented comments on appearance;
- (f) Embarrassing sexually-oriented stories;
- (g) Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
- (h) Sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees. Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

An employee who feels he/she is subjected to sexual harassment should immediately contact an administrative person with whom the employee feels the

most comfortable. The mayor is the person the local government designates as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the mayor, the investigator shall be a local government employee appointed by the Town of New Tazewell. (Ord. #2010-282, March 2010)

4-108. Separations and disciplinary actions. (1) Types of separations. All separations of employees from positions with the town will be designated as one (1) of the following types and will be accomplished in the manner indicated: resignation, layoff, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other town property in the employee's custody must be transferred to the department. Any amount due because of shortages will be withheld from the employee's final compensation.

(2) Resignation. In the event an employee decides to leave the town's employ, a two (2) week notice will be given to his/her supervisor so that arrangements for a replacement can be made. In such a case, employees will be expected to return any/or all town government equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the department head as a resignation.

If a former employee returns to town employment, his/her status of seniority, pay, leave, etc., will be the same as any new employee beginning work for the first time.

(3) Layoff. The department head, upon approval from the town mayor, may lay off an employee in town service when he/she deems it necessary by reason of a shortage of funds, abolishing a position, other material changes in the duties or organization of the employee's position, or related reasons that are outside the employer's control and that do not reflect discredit upon the employee's service.

The duties performed by a laid-off employee may be assigned to other town employees who hold positions in the appropriate class. Temporary employees will be laid off before regular employees.

A laid-off employee who is reinstated as a town employee within ninety (90) days from the date he/she was laid off will be reinstated with full benefits as if he/she had not been laid off.

(4) Disciplinary action. All local government employees not under an employment contract for a specified time period are employees at-will of the local government. The local government reserves the right to discharge at-will employees for cause or for no reason, except that no employee will be discharged for reasons that are prohibited by state and federal law. There may be occasions when local governments take disciplinary actions short of termination against employees. These actions in no way create a property right in employment for at-will employees. (Ord. #2010-282, March 2010)

4-109. Amendments to the personnel rules. (1) Amendments. Amendments or revisions of these rules may be recommended for adoption by the town mayor. Amendments or revisions of these rules become effective upon approval by resolution of the board of mayor and aldermen.

(2) Severability. Each section, subsection, paragraph, sentence, and clause of this policy document is separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause does not affect the validity of any other portion of these rules, and only any portion declared to be invalid by a court of competent jurisdiction will be deleted.

(3) Conflicting policies repealed. All town policies, ordinances or resolutions or department standard operating procedures or policies that conflict with the provisions of these policies are hereby repealed. If you notice an error in this document please contact the town mayor.

(4) Special note. These personnel policies are believed to be written within the framework of the Charter of the Town of New Tazewell but in case of conflict, the charter takes precedence.

These personnel regulations are for information only. This is not an employment contract. This document is a statement of current policies, practices, and procedures. Nothing in this document is to be interpreted as giving employees property rights in their jobs. These personnel policies, rules, and regulations may be reviewed periodically. The employer reserves the right to change any or all policies, practices, and procedures in whole or in part at any time, with or without notice to employees. (Ord. #2010-282, March 2010)

CHAPTER 2

USE OF INTERNET AND ELECTRONIC MAIL

SECTION

4-201. Policy.

4-202. Procedures.

4-203. Internet use form.

4-201. Policy. It is the policy of the Town of New Tazewell that all employees having global Internet access and e-mail privileges shall use such access only for official work in full compliance with this policy and the policies of the town. Each user must be aware of the risks related to Internet access and e-mail which cannot be eliminated but may only be managed through the exercise of prudence and caution. (Ord. #2010-292, Oct. 2010)

4-202. Procedures. (1) Use of the Internet/e-mail. Employees must be individually authorized to use the Internet and/or e-mail before doing so during working hours or while using any town equipment. No employee will be so authorized by the town until the employee has signed the Internet use form (see § 4-203).

(2) No e-mail message sent or received on town computers is personal or private; each is the property of the Town of New Tazewell. E-mail messages can be copied, distributed, discovered in litigation and used in disciplinary proceedings even if deleted by the recipient. Users have no expectation of privacy as to any e-mail message at any time.

(3) Principles of acceptable Internet and computer system use. (a) Use must be for legitimate work-related purposes only.

(b) Users shall respect the legal protections afforded by copyright and license laws for programs and data.

(c) Users shall identify themselves as employees of their department and the town when sending any e-mail message via the Internet.

(4) Unacceptable use of the Internet, e-mail, and the town's computer system. (a) Users shall respect the integrity of the town's computing system and shall not use it for unacceptable purposes or in an unacceptable manner as described below. It is unacceptable for a user to use, submit, publish, display, or transmit on the Internet, or any part of the town's computer system, any information which:

(i) Uses the system for any illegal purpose;

(ii) Contains defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually-oriented, threatening, racially offensive, or otherwise biased, discriminatory, or illegal material, whether in the form of a "joke" or otherwise;

(iii) Violates or infringes on the rights of any other person, including the right to privacy; or

(iv) Modifies files or data belonging to other users without explicit permission to do so.

(b) No user, other than the town manager or the various department directors shall have authority to subscribe to any service for which a fee is charged.

(c) Users shall not use or develop programs that harass other users or infiltrate a computer or computing system or which seek to alter or damage the software components of a computer or computing system.

(5) Personal use. The prohibitions in this policy shall also not be construed to prohibit infrequent and brief use of the system for incidental personal matters by an employee during a meal or other personal break time. This is similar to an employee's limited ability to make a personal telephone call on personal time. For example, an employee may spend a minute or two looking at the weather radar online provided, however, in no event shall any such limited personal use include any activity otherwise prohibited by this policy, e.g., visiting a sexually explicit site.

(6) No right of privacy--monitoring. (a) Pursuant to the Electronic Communications Act of 1986, 18 U.S.C. 2510, *et seq.*, notice is hereby given that there are no facilities provided by the town and its system for sending or receiving private or confidential electronic communications.

(b) Electronic mail, whether sent via the Internet or internally, may be a public record subject to public disclosure under the Tennessee Public Records Law¹ and may be inspected by the public. (Ord. #2010-292, Oct. 2010)

4-203. Internet use form.

ACKNOWLEDGEMENT

I hereby acknowledge that I have received and read a copy of the Town of New Tazewell's Policy for the Use of Internet and Electronic Mail. I understand that all e-mail communications systems are the property of the town, as is the information received from, transmitted by, or stored in these systems. I understand that, except with respect to certain content deemed confidential by state and federal law, I have no expectation of privacy in connection with any e-mail messages, the use of town

¹State law reference

Tennessee Code Annotated, § 10-7-512.

equipment, or the transmission, receipt, or storage of information in this equipment.

I acknowledge and consent to the town's monitoring my use of both Internet and Internet e-mail at any time the town deems it necessary in accordance with its policy. Monitoring may include reading and printing out all electronic mail entering, stored in, or disseminated by the Town of New Tazewell's system and equipment. I agree not to use a code, access a file, or retrieve any stored information unless authorized to do so. I understand that this consent is a condition of my employment and/or continued association with the town. I understand all the provisions specified in this policy. Further, I recognize that a violation of this policy may result in disciplinary action, including possible termination.

Employee Signature
Town of New Tazewell

Date

Department

(Ord. #2010-292, Oct. 2010)

TITLE 5**MUNICIPAL FINANCE AND TAXATION**¹**CHAPTER**

1. MISCELLANEOUS.
2. WHOLESALE BEER TAX.
3. LOCAL SALES TAX.

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

5-101. Official depository for town funds.

5-101. Official depository for town funds. The Citizens Bank, First Century Bank, Enrichment Federal Credit Union, Home Federal Bank, First State Financial, and Commercial Bank of New Tazewell, Tennessee, are hereby designated as the official depositories for all municipal funds. (1998 Code, § 5-101, modified)

¹Charter references

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

CHAPTER 2**WHOLESALE BEER TAX****SECTION**

5-201. To be collected.

5-201. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the Town of New Tazewell of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1998 Code, § 5-301)

¹State law reference

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

CHAPTER 3

LOCAL SALES TAX¹

SECTION

- 5-301. Local sales tax levied.
- 5-302. Approval of voters required.
- 5-303. Collection of tax.
- 5-304. Suits for recovery of illegally assessed or collected tax.
- 5-305. Notice of ordinance.

5-301. Local sales tax levied.² As authorized by Tennessee Code Annotated, title 67, chapter 6, part 7, 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 town. The tax is levied on all such privileges at a rate of one-third (1/3) of the rates levied in the Retailers' Sales Tax Act codified in Tennessee Code Annotated, title 67, chapter 6. There is excepted from the tax levied herein the sale, purchase, use, consumption, or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil. Penalties and interest for delinquencies shall be the same as provided in Tennessee Code Annotated, §§ 67-6-505, 67-6-506, and 67-6-516. (1998 Code, § 5-401, modified)

5-302. Approval of voters required.³ Any amendment to any existing tax rate shall be subject to approval of the voters of the town in the same manner as is required for the initial adoption of the tax; provided that a change in the limitation on the amount of the tax made in accordance with Tennessee Code Annotated, § 67-6-702(a)(2) shall not be subject to approval of the voters of the town.

5-303. Collection of tax. 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

¹State law reference
Tennessee Code Annotated, §§ 67-6-701, et seq.

²State law reference
Tennessee Code Annotated, § 67-6-702(a)(2).

³State law reference
Tennessee Code Annotated, § 67-6-705(c).

collection of the state's sales tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax pursuant to Tennessee Code Annotated, § 67-6-710(b)(2). (1998 Code, § 5-403, modified)

5-304. Suits for recovery of illegally assessed or collected tax. 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. (1998 Code, § 5-404)

5-305. Notice of ordinance. A copy of the ordinance comprising this chapter shall be transmitted to the said Department of Revenue and shall be published one (1) time in a newspaper of general circulation in the town prior to the election called for in § 5-302. (1998 Code, § 5-405)

TITLE 6**LAW ENFORCEMENT****CHAPTER**

1. POLICE AND ARREST.
2. AUXILIARY POLICE UNIT.
3. CITATIONS, WARRANTS AND SUMMONSES.
4. POLICE DEPARTMENT RULES AND REGULATIONS.

CHAPTER 1**POLICE AND ARREST****SECTION**

- 6-101. Police officers subject to chief's orders.
- 6-102. Police officers to preserve law and order, etc.
- 6-103. Police officers to wear uniforms and be armed.
- 6-104. When police officers to make arrests.
- 6-105. Disposition of persons arrested.
- 6-106. Police department records.
- 6-107. Miscellaneous administrative provisions.
- 6-108. Drug fund established.
- 6-109. Standard operating procedures.

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1998 Code, § 6-101, modified)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the Town of New Tazewell. They shall patrol the town and shall assist the town court during the trial of cases. Police officers shall also promptly serve any legal process issued by the town court. (1998 Code, § 6-102, modified)

6-103. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1998 Code, § 6-103, modified)

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

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1998 Code, § 6-104, modified)

6-105. Disposition of persons arrested.¹ (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinance, shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender.

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

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by police officers.
- (3) All police investigations made and fire calls answered.
- (4) Any other records required to be kept by the board of mayor and aldermen or by law. (1998 Code, § 6-107, modified)

6-107. Miscellaneous administrative provisions. The following miscellaneous administrative provisions shall apply to the police department:

- (1) The police department shall be composed of a chief of police and such number of patrolmen as the board shall appoint.
- (2) All police officers shall be on regular duty forty-two (42) hours per week or eighty-four (84) hours in a two (2) week period and shall be on call twenty-four (24) hours a day.

¹Municipal code reference

Trial and disposition of cases: § 3-205.

(3) Pay for police officers is established in the annual budget and pay day regulations are set forth in title 4 of this code.

(4) Each police officer will be furnished six (6) uniforms (three (3) winter and three (3) summer) which will remain the property of the town.

(5) The town will furnish a sidearm to each officer.

(6) Any police officer may be suspended or discharged by the board at any time for conduct unbecoming an officer.

(7) All police officers will be expected to patrol and police the entire town and to keep a log of daily activities.

(8) All police officers must be bondable but the town will pay the costs of any required bonds.

(9) Each police officer shall keep a record of all citations he issues, arrests he makes, complaints he handles, and receipts he issues.

(10) All fees, fines, or bonds collected or received by police officers as a result of arrests or other law enforcement activities will be promptly paid over to the town.

(11) Police officers will be responsible for seeing that the patrol car has proper maintenance and is kept neat and clean at all times.

(12) Each police officer must maintain a telephone and service. (1998 Code, § 6-108, modified)

6-108. Drug fund established. (1) The New Tazewell Police Department shall be accountable to the New Tazewell Board of Mayor and Aldermen for the proper disposition of the proceeds of goods seized and forfeited under the provisions of Tennessee Code Annotated, § 53-11-451, and for the fines imposed by Tennessee Code Annotated, § 39-17-428.

(2) All drug fund monies will be deposited into the general fund account of the municipality and kept in a separate ledger for identification purposes and be spent according to the Tennessee Code Annotated, § 39-17-420.

(3) An annual audit report of such funds shall be submitted to the New Tazewell Board of Mayor and Aldermen. (1998 Code, § 6-109)

6-109. Standard operating procedures. All police matters are covered in the police policy and procedures manual. A copy of the manual is maintained in the police chief's office.

CHAPTER 2

AUXILIARY POLICE UNIT

SECTION

- 6-201. Purpose.
- 6-202. Authority.
- 6-203. Restrictions.
- 6-204. Types of active duty.
- 6-205. Requirements.

6-201. Purpose. The purpose of the auxiliary police unit is to have trained and bonded personnel subject to call to active duty when needed for:

- (1) Any emergency.
- (2) To fill in for regular personnel in cases of:
 - (a) Sickness.
 - (b) Annual leave. (1998 Code, § 6-201)

6-202. Authority. Auxiliary police have full arrest powers of regular police personnel, as stated in town ordinances governing police activity, when placed on active duty status by proper authority and are authorized to carry weapons as stated in town ordinances governing regular police personnel when placed on active duty status by proper authority. (1998 Code, § 6-202)

6-203. Restrictions. No auxiliary police officer shall make an arrest or carry a weapon unless placed on "duty" status by:

- (1) Board of mayor and aldermen (as a body); or
- (2) Mayor. (1998 Code, § 6-203)

6-204. Types of active duty. (1) Paid active duty.

- (a) When called to duty in cases of emergency.
- (b) When called to duty to fill in for regular police personnel.

(2) Non-pay active duty. Voluntary service approved by the chief of police for training purposes. (1998 Code, § 6-204)

6-205. Requirements. All auxiliary police officers must meet Peace Officers Standards and Training (POST) Commission requirements for part-time/temporary/auxiliary law enforcement officers, and be approved by the Board of Mayor and Aldermen of New Tazewell, be bonded to the Town of New Tazewell, carry arrest insurance, and obey all rules and regulations of regular police personnel while on active duty. (1998 Code, § 6-205, modified)

CHAPTER 3

CITATIONS, WARRANTS, AND SUMMONSES

SECTION

6-301. Citations in lieu of arrest in non-traffic cases.

6-302. Summonses in lieu of arrest.

6-301. Citations in lieu of arrest in non-traffic cases.¹ (1) Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the board of mayor and aldermen appoints the fire chief in the fire department and the code enforcement officer in the building department special police officers having the authority to issue citations in lieu of arrest. The fire chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The code enforcement officer in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

(2) The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated, § 7-63-104.

(3) It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

6-302. Summonses in lieu of arrest. (1) Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the board of mayor and aldermen to designate certain town enforcement officers the authority to issue ordinance summonses in areas of sanitation, litter control and animal control, the board designates the code enforcement officer to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

¹Municipal code reference

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

(2) The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

(3) The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

- (a) Have a summons issued by the clerk of the town court; or
- (b) Seek the assistance of a police officer to witness the

violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above.

(4) It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

CHAPTER 4

POLICE DEPARTMENT RULES AND REGULATIONS

SECTION

6-401. New Tazewell Police Department Rules and Regulations.

6-401. New Tazewell Police Department Rules and Regulations.¹

The New Tazewell Police Department Rules and Regulations are hereby adopted by reference and incorporated as if fully set out herein.

¹The New Tazewell Police Department Rules and Regulations (and any amendments) are available for review in the office of the recorder.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN 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 all that area defined and described as corporate limits in the town's zoning ordinance.² (1998 Code, § 7-101, modified)

¹Municipal code reference

Building, utility and residential codes: title 12.

²The zoning ordinance and map, and any amendments thereto, are available in the office of the recorder.

CHAPTER 2

FIRE CODE¹

SECTION

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

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,² 2006 edition, as prepared and adopted by the International Code Council is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1998 Code, § 7-201, as amended by Ord. #254, Sept. 2006, modified)

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. (1998 Code, § 7-202, modified)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the Town of New Tazewell, Tennessee. (1998 Code, § 7-203, modified)

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

¹Municipal code reference

Building, utility and residential codes: title 12.

²Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

The limits referred to in the fire code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

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

The limits referred to in the fire code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1998 Code, § 7-204, modified)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1998 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1998 Code, § 7-206, modified)

7-207. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a joint fire department to be supported and equipped from appropriations by the Boards of Mayor and Aldermen of the Towns of Tazewell and New Tazewell. The appropriations shall be paid over to and administered by a fire department committee composed of five (5) members (two (2) from the Tazewell Board of Mayor and Aldermen, two (2) from the New Tazewell Board of Mayor and Aldermen, and the fire chief) for the exclusive use of the fire department. Board members of the fire department committee shall serve at the will and pleasure of the mayor appointing them. The committee shall provide for its organization, shall adopt its own by-laws, and shall keep complete minutes of all its meetings. All apparatus, equipment and supplies shall be purchased by the fire department committee for the towns, in accordance with the annual budget approved by the Boards of Mayor and Aldermen of Tazewell and New Tazewell, and shall be and remain the joint property of Tazewell and New Tazewell. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the fire department committee shall appoint or authorize. (1998 Code, § 7-301)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1998 Code, § 7-302)

¹Municipal code reference

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

7-303. Organization, rules, and regulations. The chief of the fire department, subject to the approval of the fire department committee, shall set up the organization of the fire 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. (1998 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 such written reports on such matters to the fire department committee as the latter may require. The fire department committee shall make such reports to the boards of mayor and aldermen of Tazewell and New Tazewell as the respective boards may from time to time require. (1998 Code, § 7-304)

7-305. Tenure and compensation of members. All members of the fire department shall serve only so long as their conduct and efficiency are satisfactory to the fire department committee. They shall receive such compensation for their services as the committee may from time to time prescribe. (1998 Code, § 7-305)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department under direction and subject to the requirements of the fire department committee. (1998 Code, § 7-306, modified)

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 commissioner in the execution of the provisions thereof. (1998 Code, § 7-307, modified)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-401. Equipment to be used only within corporate limits except when answering a mutual aid agreement call from another agency.

7-401. Equipment to be used only within corporate limits except when answering a mutual aid agreement call from another agency. No equipment of the Tazewell-New Tazewell Fire Department shall be used for fighting any fire outside of the corporate limits of either town unless the fire is on town property, or in the opinion of the chief of the fire department is in such hazardous proximity to property owned by or located within the town as to endanger the town property. (Ord. #202, Aug. 1999, modified)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Permits required for sale.
- 7-504. Permissible items of fireworks.
- 7-505. Conditions for sale and use of permissible articles.
- 7-506. Public displays--permits--regulations.
- 7-507. Retail sales of permissible articles--time limitations--exceptions.
- 7-508. Private use of permissible articles--time limitations--exceptions.
- 7-509. Regulations governing storing, locating or display of fireworks.
- 7-510. Unlawful acts in the sale and handling of fireworks.
- 7-511. Exceptions to application.
- 7-512. Seizure and destruction of fireworks.
- 7-513. Requirements or compliance with state regulations not affected.
- 7-514. Violation and penalty.

7-501. Purpose. The purpose of this chapter is to provide for the display, sale and use of certain fireworks for both private and public display within the corporate limits of the Town of New Tazewell, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (1998 Code, § 7-501)

7-502. Definition of terms. As used in this chapter the following terms shall have the meaning ascribed to them in this section unless clearly indicated otherwise.

(1) "Distributor." Any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a jobber, wholesaler or retailer.

(2) "DOT Class C Common fireworks." Shall mean all articles of fireworks as are now or hereafter classified as "DOT Class C Common fireworks" in the regulation of the United States Department of Transportation for the transportation of explosive and other dangerous articles.

(3) "Jobber." Any person engaged in the business of making sales of fireworks to bona fide tourists for use outside the State of Tennessee.

(4) "Manufacturer." Any person engaged in making, manufacture, or construction of fireworks of any type within the Town of New Tazewell or the State of Tennessee.

(5) "Permit." A permit is the written authority of the state fire marshal issued under the authority of Tennessee Code Annotated, §§ 68-104-101--68-104-116.

(6) "Person." Includes any corporation, association, co-partnership or one (1) or more individuals.

(7) "Retailer." Any person engaged in the business of making sales of fireworks to consumers.

(8) "Sale." An exchange of articles of fireworks for money and also includes barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal, proprietor, salesman, agent, association, co-partnership, or one (1) or more individuals.

(9) "Singular" and "plural." Words used in the singular include the plural and the plural the singular.

(10) "Special fireworks." Shall mean all articles of fireworks that are classified as Class B explosives in the regulation of the United States Department of Transportation and shall include all articles other than those classified as Class C explosives.

(11) "Wholesaler." Any person engaged in the business of making sales of fireworks to any other person engaged in the business of making sales at retail. (1998 Code, § 7-502, modified)

7-503. Permits required for sale. It shall be unlawful for any person to sell, offer for sale, ship or cause to be shipped into or within the Town of New Tazewell, except as herein provided, any item of fireworks, without first having secured the required applicable permit from the recorder and also from the state fire marshal, possession of said permit being hereby a condition prerequisite to selling, or offering for sale, shipping or causing to be shipped any fireworks into or within the Town of New Tazewell, except as herein provided. This provision applies to non-residents as well as residents of the Town of New Tazewell. Permits issued under this section are not transferable, nor shall a person be permitted to operate under a permit issued to any other person.

(1) Prior to engaging in the sale within the Town of New Tazewell, Tennessee, or shipment into the Town of New Tazewell, of any fireworks each person must make application on forms secured from the recorder and the state fire marshal for a permit or permits required under this chapter.

(2) The manufacture or bulk storage (storage other than limited amounts incidental to permitted retail sales or public display) of fireworks within the corporate limits of the Town of New Tazewell is prohibited, and a violation of this section is unlawful and punishable under the provision of this chapter or the applicable state code.

(3) The decision of the recorder as to what type of permit or permits shall be required of each person shall be final. No permit shall be issued to a person under the age of eighteen (18) years.

(4) In addition to charges for permits authorized to the state fire marshal for state permits, the recorder is authorized and directed to charge for permits issued as follows: Wholesalers ten dollars (\$10.00); retailer ten dollars

(\$10.00); display ten dollars (\$10.00) and deposit these funds into the general fund accounts.

(5) A record of all sales, other than retail sales directly to private consumers, must be kept showing the names and address of purchasers. All fees collected for said permits shall be payable directly to the general fund of the town and shall constitute general fund revenue. (1998 Code, § 7-503, modified)

7-504. Permissible items of fireworks. It shall be unlawful for any individual, firm, partnership, or corporation to possess, sell, or use within the Town of New Tazewell, or ship into the Town of New Tazewell except as provided in § 7-506, any pyrotechnics, commonly known as "fireworks," other than the following permissible items:

(1) Those items now or hereafter classified as DOT Class C common fireworks; 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. (1998 Code, § 7-505, modified)

7-505. Conditions for sale and use of permissible articles. No permissible articles of common fireworks defined in Tennessee Code Annotated, § 68-104-108, shall be sold, offered for sale, or possessed within the town, or used in the Town of New Tazewell except as herein provided for public display, unless it shall be properly named to conform to the nomenclature of Tennessee Code Annotated, § 68-104-108, and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container, "DOT Class C Common fireworks," such imprinting to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities, and the general public. The Fire Marshal of the State of Tennessee regulations relative to the possession and sale of fireworks, their storage and safety requirements, are here and now incorporated by reference herein, together with the National Fire Protection Association (NFPA 1124), and the fire code, all in full force and effect within the town. (1998 Code, § 7-506, modified)

7-506. Public displays--permits--regulations. The public display of fireworks within the corporate limits of the Town of New Tazewell shall be governed by the provisions of Tennessee Code Annotated, § 68-104-211. Required permits for the controlled, public display of fireworks shall be obtained from the state fire marshal and also from the town fire chief and the town chief of police. (1998 Code, § 7-507, modified)

7-507. Retail sale of permissible articles--time limitations--exceptions. Permissible items of fireworks, defined in Tennessee Code Annotated, § 68-104-108, may be sold at retail and used within the Town of New

Tazewell from June 20th through July 5th, from August 25th through September 10th, and from December 10th through January 10th of each year only, except that the term "fireworks" shall not include toy pistols, toy cannons, toy guns, or other devices in which paper caps containing twenty-five hundredth (25/100th) 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 than twenty-five hundredth (25/100th) grains of explosive compounds, cone, bottles, tube and other type serpentine pop-off novelties, model rockets, nonpoisonous toy snakes, smoke sticks with report and sparklers, emergency flares, and matches, the sale and use of which shall be permitted at all times. (1998 Code, § 7-508, modified)

7-508. Private use of permissible articles--time limitations--exceptions. Permissible items of fireworks, defined in Tennessee Code Annotated, § 68-104-108, may be stored, used and expended within the Town of New Tazewell by private citizens for their personal use and enjoyment during the periods June 20th through July 5th, from August 25th through September 10th, and from December 10th through January 10th of each year under the following restrictions.

(1) Permitted fireworks shall not be ignited, exploded, or otherwise used in an area or location of the town whereby persons or property may be endangered.

(2) Permitted fireworks shall be ignited, exploded, or otherwise used within six hundred feet (600') of any business or storage area whereas or wherein flammable materials are sold, used or stored.

(3) Permitted fireworks may be ignited, exploded, or otherwise used during the hours of 10:00 A.M. to 12:00 midnight, daily during the permitted periods.

(4) Small children, those under the age of ten (10) years, shall be supervised by adults when using permitted fireworks.

(5) If the use of permitted fireworks in a specific area of the town becomes a public nuisance or endangerment to private or public property in the opinion of the town fire chief or the town chief of police, these officials or their authorized representatives are authorized and directed to prohibit said use therein or thereat. (1998 Code, § 7-509)

7-509. Regulations governing storing, locating or display of fireworks. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks--No Smoking" in letters not less than four inches (4") high. 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 other person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchasers, must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision.

(3) All firework devices sold under a duly issued permit must be located not less than three hundred feet (300') from any gasoline dispensing pump.

(4) As permits are temporary for a period not to exceed thirty (30) days, the permit shall state any sales site must be at all times free from litter and debris, including the termination date of authorized selling periods. Violation of this provision, for which citation may issue, may give cause to refuse issuance of another permit for a period not to exceed three (3) years.

7-510. Unlawful acts in the sale and handling of fireworks. It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of ten (10) years, or to any intoxicated or irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school, or within five hundred feet (500') of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within, or throw the same from a motor vehicle while within; nor shall any 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 persons. (1998 Code, § 7-511, modified)

7-511. Exceptions to application. Nothing in this chapter shall be constructed as applying to the manufacture, storage, sale or use of signals necessary for the 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 of the State of Tennessee or to the peace officers of the town or of the state, 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 shall first secure a written permit to purchase and use fireworks for agricultural purposes only from the recorder, and the state fire marshal, and after approval of the County Agricultural Agent of Claiborne County, Tennessee, and said fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the town and the state. (1998 Code, § 7-512, modified)

7-512. Seizure and destruction of fireworks. Pursuant to Tennessee Code Annotated, § 68-104-115(a) the town fire chief shall seize as contraband, any fireworks other than "Class C common fireworks" as defined in § 7-505 hereof, and Tennessee Code Annotated, § 68-104-108, or "special fireworks" for public displays as provided in § 7-507 of this chapter and Tennessee Code Annotated, § 68-104-211, which are sold, displayed, used or posed in violation of this chapter. After notice and hearing pursuant to Tennessee Code Annotated, § 68-104-115(b), the town fire chief is authorized to destroy any fireworks. (1998 Code, § 7-514, modified)

7-513. Requirements or compliance with state regulations not affected. This chapter shall in no way affect the validity of any law or regulation promulgated by the State of Tennessee or by the fire marshal thereof, as relates to the control and regulations of the manufacture, sale or use of fireworks within the State of Tennessee. It is the intent of this chapter to authorize the public display, sale and use of such fireworks within the corporate limits of the Town of New Tazewell in accordance with the applicable state regulations, as augmented by the rules and regulations of the Town of New Tazewell. (1998 Code, § 7-515)

7-514. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense. (1998 Code, § 7-513, modified)

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Prohibited generally.
8-102. Clubs.

8-101. Prohibited generally. Except as authorized by applicable laws and/or ordinances,² it shall be unlawful for any person acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of New Tazewell. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1998 Code, § 8-101, modified)

8-102. Clubs. Clubs, as defined in Tennessee Code Annotated, § 57-4-102, selling liquor shall first apply to the board of mayor and aldermen for a certificate of good moral character. (1998 Code, § 8-102, modified)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

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

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. 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 town 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 reasonable 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 record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the

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).

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.¹ 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 mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101(a)(20); provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

8-207. Permit required for engaging in beer business.² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of New Tazewell. 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.

¹State law reference
Tennessee Code Annotated § 57-5-106.

²State law reference
Tennessee Code Annotated § 57-5-103.

8-208. Privilege tax.¹ 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 Town of New Tazewell, 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-premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.²

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (Ord. #2012-297, March 2012)

¹State law reference

Tennessee Code Annotated, § 57-5-104(b).

²State law reference

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 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.

8-211. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

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

(2) Make or allow the sale of beer between the hours of 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.

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

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

(5) Allow drunk persons to loiter about his premises.

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(7) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

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

8-212. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-213. Civil penalty in lieu of revocation or suspension.

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

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

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

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

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

8-214. 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.

8-215. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. TAXICABS.
4. RECREATIONAL VEHICLE CAMPGROUND.
5. CABLE TELEVISION.
6. ADULT-ORIENTED ESTABLISHMENTS.
7. GARAGE SALES.

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. Required equipment and standards for all wreckers.

9-101. Required equipment and standards for all wreckers. All wreckers shall have and maintain additional equipment and standards as follows:

- (1) The following additional equipment is required:
 - (a) At least one (1) heavy-duty push broom;
 - (b) Flood lights mounted at a height sufficient to illuminate the scene at night;
 - (c) One (1) shovel;
 - (d) A minimum of one (1) fully charged twenty pound (20 lb.), or two (2) fully charged ten pound (10 lb.) fire extinguisher(s) having an Underwriter's Laboratory rating of four (4) A:B:C: or more. The fire extinguisher(s) must be securely mounted on the towing vehicle;
 - (e) One (1) axe;
 - (f) One (1) set of bolt cutters;
 - (g) One (1) pinch bar, pry bar or crow bar;

¹Municipal code references

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

Junkyards: title 13, chapter 2.

Liquor and beer regulations: title 8.

Noise reductions: title 11, chapter 4.

Zoning: title 14.

(h) A minimum of one (1) fifty pound (50 lb.) bag of fluid absorption compound;

(i) Three (3) red emergency reflectors;

(j) One (1) red light bar. The towed vehicle must be capable of displaying all lights on the rear of the vehicle, while in tow. When this is not possible, a light bar must be attached to the rear most vehicle while in tow. The bar must consist of two (2) tail lamps, two (2) stop lamps and two (2) turn signals. All lights on the light bar must be fully operational.

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

(3) All wreckers shall display the firm's name, address and phone number. Such information shall be painted on or permanently affixed on both sides of the towing vehicle. Such lettering shall be at least three inches (3") high. Magnetic signs are not permitted as a substitute.

(4) In accordance with Tennessee Code Annotated, § 55-8-170(c), it is the responsibility of the wrecker operator to have equipment for removing glass and other debris from the accident scene and to remove such debris from the highway. The wrecker operator shall be responsible for removing all glass and other debris from the street or highway. Failure to do so may result in suspension or revocation of the wrecker operator's permit.

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. Violation and penalty.

9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one (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 Claiborne 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 town, 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) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(6) "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 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.

9-202. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.

¹State law references

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

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

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

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

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

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

(d) The name and permanent address of each person who will make sales or solicitations within the town.

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

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of fifty dollars (\$50.00). The permit shall expire fourteen (14) days from the date the permit is issued. There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

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

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

9-205. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

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

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

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

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

9-206. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-207. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-208. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the recorder for any of the following causes:

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in 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.

9-209. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire after fourteen (14) days. The permit may be renewed for fifty dollars (\$50.00).

9-210. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 3

TAXICABS¹

SECTION

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

9-301. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the town and has a currently effective privilege license. (1998 Code, § 9-501)

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

¹Municipal code reference
Privilege taxes: title 5.

aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the governing body shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1998 Code, § 9-502, modified)

9-303. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of the liability insurance requirements contained in Tennessee Code Annotated, § 65-15-110. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the town. (1998 Code, § 9-503, modified)

9-304. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1998 Code, § 9-504)

9-305. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the town unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1998 Code, § 9-505)

9-306. Cleanliness of vehicles. All taxicabs operated in the town shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1998 Code, § 9-506)

9-307. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1998 Code, § 9-507)

9-308. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1998 Code, § 9-508)

9-309. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he pays an annual permit fee of fifty cents (\$0.50) and complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the recorder.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the town who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1998 Code, § 5-509)

9-310. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-309. (1998 Code, § 9-510)

9-311. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the town for the purpose of obtaining patronage for their cabs. (1998 Code, § 9-511)

9-312. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the town for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging

passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1998 Code, § 5-512)

9-313. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1998 Code, § 9-513)

9-314. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1998 Code, § 9-514)

9-315. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the town in any way. (1998 Code, § 9-515)

9-316. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1998 Code, § 9-516)

CHAPTER 4

RECREATIONAL VEHICLE CAMPGROUND

SECTION

9-401. Campgrounds.

9-401. Campgrounds. RV and tent campgrounds are not permitted inside town limits.

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the Town of New Tazewell and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of New Tazewell and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹ (1998 Code, § 9-901)

¹The cable television franchise agreement is available in the office of the recorder.

CHAPTER 6

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-601. Definitions.
- 9-602. License required.
- 9-603. Application for license.
- 9-604. Standards for issuance of license.
- 9-605. Permit required.
- 9-606. Application for permit.
- 9-607. Standards for issuance of permit.
- 9-608. Fees.
- 9-609. Display of license or permit.
- 9-610. Renewal of license or permit.
- 9-611. Hours of operation.
- 9-612. Responsibilities of the operator.
- 9-613. Prohibited activities.
- 9-614. Location restrictions.
- 9-615. Penalties and prosecution.

9-601. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

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

(2) "Adult cabaret" is defined to mean an establishment which features as a principal 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 picture, 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 significant or 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" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of New Tazewell, 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 anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

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

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (2)"Specified sexual activities" means:

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

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

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

(12) "Specified sexual activities" means:

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

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

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (Ord. #251, Aug. 2006)

9-602. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of New Tazewell without first obtaining a license to operate issued by the Town of New Tazewell.

(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 one hundred twenty (120) days of the passing 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. (Ord. #251, Aug. 2006)

9-603. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the recorder, Town of New Tazewell. The application shall be filed in triplicate with and dated by the recorder.

(2) The application for a license shall be upon a form provided by the recorder. 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 address, 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 applicant's 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, town 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 business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
- (g) All criminal statutes, whether federal or state, or town 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 leasees subletting to applicant;
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany application;

(l) The length of time each applicant has been a resident of the Town of New Tazewell, 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's business name, address, phone number, and representative's name;

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Town of New Tazewell, the recorder 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 recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Wherever an application is denied or held for further investigation, the recorder 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 mayor and aldermen 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 mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the town attorney shall institute suit for declaratory judgment in the Chancery Court of Claiborne 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 recorder. (Ord. #251, Aug. 2006)

9-604. 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 § 9-602 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-602 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 Town of New Tazewell has investigated the applicant's qualifications to be licensed. The results of that

investigation shall be filed in writing with the recorder no later than twenty (20) days after the date of the application. (Ord. #251, Aug. 2006)

9-605. 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 recorder. (Ord. #251, Aug. 2006)

9-606. Application for permit. (1) Any person desiring to secure a permit shall make application to the recorder. The application shall be filed in triplicate with and dated by the recorder.

(2) The application for a permit shall be upon a form provided by the recorder. 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 town 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 town 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 Town of New Tazewell, 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 Town of New Tazewell, the town 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 town 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 town 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 mayor and aldermen 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 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 town. (Ord. #251, Aug. 2006)

9-607. 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 Town of New Tazewell has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the town not later than twenty (20) days after the date of the application. (Ord. #251, Aug. 2006)

9-608. 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. (Ord. #251, Aug. 2006)

9-609. 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, the New

Tazewell Police Department, or any person designated by the board of mayor and aldermen. (Ord. #251, Aug. 2006)

9-610. 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 recorder. 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 recorder. A copy of the application for renewal shall be distributed promptly by the recorder and to the operator. The application for renewal shall be a form provided by the recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(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 Town of New Tazewell is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with recorder. (Ord. #251, Aug. 2006)

9-611. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Town of New Tazewell, the New Tazewell Police Department, or such other persons as the board of mayor and aldermen may designate. (Ord. #251, Aug. 2006)

9-612. 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 of duties of each employee and such other information as may be required by the board of mayor and aldermen. 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 the Town of New Tazewell upon demand 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 employee 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 area 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 Town of New Tazewell at all reasonable times.

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

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

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

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

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

"This Adult-oriented Establishment is regulated by the Town of New Tazewell Municipal Ordinances. 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." (Ord. #251, Aug. 2006)

9-613. Prohibited activities. (1) No operator, entertainer or employee of an adult-oriented establishment, either on the premises or in relation to the person's role as an operator, entertainer, or employee of an adult-oriented establishment, shall permit to be performed, offer to perform, perform, or allow patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

(4) (a) No employee or entertainer, while on the premises of an adult-oriented establishment, may:

- (i) Engage in sexual intercourse;
- (ii) Engage in deviant sexual conduct;
- (iii) Appear in a state of nudity; or
- (iv) Fondle such person's own genitals or those of another.

(b) For the purpose of this section, "nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(5) If the license holder operates an escort bureau, such bureau shall not be operated as a sexually-oriented escort bureau as defined in this part.

(6) No permit holder of an escort bureau shall conduct oneself as a sexually-oriented escort as defined in this part.

(7) No license holder shall advertise that such license holder offers sexual stimulation or sexual gratification as defined in this part.

9-614. Location restrictions. Allowed in an Industrial Zoning District (M-1). (Ord. #251, Aug. 2006)

9-615. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each

violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (Ord. #251, Aug. 2006)

CHAPTER 7

GARAGE SALES

SECTION

- 9-701. Definitions.
- 9-702. Property permitted to be sold.
- 9-703. Date of sales.
- 9-704. Limited number of sales per year.
- 9-705. Hours of operation.
- 9-706. Display of sale property.
- 9-707. Advertising.
- 9-708. Violation and penalty.

9-701. Definitions. For the purpose of this chapter, the following terms are defined and shall be construed as follows:

(1) "Garage sales" shall be the offering for sale or exchange, to the public of any personal property of any kind or description at a sale held on privately-owned residential property. For the purpose of this chapter, garage sales include all sales of personal property, whether entitled "garage sales," "lawn sales," "yard sales," "attic sales," "porch sales," "room sales," "backyard sales," "patio sales," "flea market," or "rummage sales."

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

(3) "Residential property" is any real estate, lot or tract in the Town of New Tazewell which is used primarily for residential purposes and zoned residential. (Ord. #2010-283, May 2010)

9-702. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (Ord. #2010-283, May 2010)

9-703. Date of sales. Garage sales are only allowed on Fridays, Saturdays, Sundays and town holidays. As used in this section, town holidays include the following holidays: New Year's Day; Martin Luther King, Jr.'s birthday; President's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; and Christmas Day. (Ord. #2010-283, May 2010)

9-704. Limited number of sales per year. No resident citizen of the Town of New Tazewell shall conduct or allow to be conducted any sale of items

of personal property more often than three (3) times per year, per residence, with each sale limited to the three (3) day duration specified in § 9-803. (Ord. #2010-283, May 2010)

9-705. Hours of operation. Garage sales shall be conducted between the hours of 8:00 A.M. and 6:00 P.M. (Ord. #2010-283, May 2010)

9-706. Display of sale property. Personal property offered for sale may only be displayed within a residence, in a garage, a carport, a driveway, or in a front, side or rear yard. No personal property offered for sale at a garage sale shall be displayed in or on any public right-of-way. All personal property must be removed from display by 8:00 P.M. each day of the garage sale and stored in a permanent type building. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. However, an unlicensed and inoperable vehicle may not be displayed for more than thirty (30) calendar days in a twelve (12) month period. (Ord. #2010-283, May 2010)

9-707. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a garage sale:

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

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

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

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (Ord. #2010-283, May 2010)

9-708. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

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

1. IN GENERAL.
2. DOGS AND CATS.

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

- 10-101. Running at large prohibited.
- 10-102. Pen or enclosure to be kept clean.
- 10-103. Storage of food.
- 10-104. Keeping in such manner as to become a nuisance prohibited.
- 10-105. Seizure and disposition of animals.
- 10-106. Maximum number of animals per dwelling unit.
- 10-107. Inspections of premises.
- 10-108. Violation and penalty.

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

Any person, including the 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. (1998 Code, § 10-101, modified)

10-102. 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. (1998 Code, § 10-102)

10-103. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1998 Code, § 10-103, modified)

10-104. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to

become a nuisance because of either noise, odor, contagious disease, or other reason. (1998 Code, § 10-104)

10-105. 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 the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl a reasonable fee set by the board of mayor and aldermen to cover the costs of impoundment and maintenance. (1998 Code, § 10-106, modified)

10-106. Maximum number of animals per dwelling unit. No person shall keep, lodge or maintain in excess of four (4) dogs and/or cats over the age of six (6) months. For the purpose of this chapter the owner or tenant is responsible for meeting the requirements of the maximum number of animals allowed. (Ord. #2009-278, Oct. 2009)

10-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1998 Code, § 10-107)

10-108. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs and cats to be securely restrained.
- 10-205. Noisy dogs or cats prohibited.
- 10-206. Confinement of dogs or cats suspected of being rabid.
- 10-207. Seizure and disposition of dogs and cats.
- 10-208. Destruction of vicious or infected dogs and cats running at large.
- 10-209. Removal and disposal of dog or cat feces from public or private property regulated.
- 10-210. Violation and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law.

10-202. Dogs and cats to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the preceding section.

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog or cat to run at large, including the owner of the dog or cat, may be prosecuted under this section even if the dog or cat 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 and cats to be securely restrained. It shall be unlawful for any person to own or keep any dog or cat known to be vicious or dangerous unless such dog or cat is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons.

¹State law reference

Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

10-205. Noisy dogs or cats prohibited. No person shall own, keep, or harbor any dog or cat which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood.

10-206. Confinement of dogs or cats suspected of being rabid. If any dog or cat 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 or cat to be confined or isolated for such time as he deems reasonably necessary to determine if such dog or cat is rabid.

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

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

¹State law reference

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

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

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

10-208. Destruction of vicious or infected dogs and cats running at large. When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by any police officer or other properly designated officer.

10-209. Removal and disposal of dog or cat feces from public or private property regulated. (1) Defecation on public or private property. No person owning or in charge of any dog or cat shall cause or allow such dog or cat to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, riverbank, passageway, bypath, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of said private property.

(2) Removal of feces. Any person owning or in charge of any dog or cat which soils, defiles, defecates or commits any nuisance on any common thoroughfare, riverbank, passageway, bypath, play area, park or any place where people congregate or walk or upon public property whatsoever or upon any private property without the permission of owner or said property shall immediately remove feces deposited by any such dog or cat by any sanitary method approved by the local enforcement authority. Sanitary methods for removing all feces are mechanical devices such as poop scoopers, small shovels, etc.

(3) Sanitary disposal of feces. (a) The owner or person in charge of such dog or cat shall remove and dispose of all feces in a sealed, nonabsorbent, leak proof container, such as a sealed plastic bag. Such material shall not be disposed in public trash receptacles or storm drains.

(b) Any owner or person in charge of a dog or cat being walked upon any common thoroughfare, sidewalk, riverbank, passageway, bypath, play area, park or any place where people congregate must have in their possession their cleanup device and nonabsorbent leak proof container(s).

10-210. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

(...continued)

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

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.
7. EMERGENCY ALARM DEVICES.
8. LITTERING.
9. CURFEW FOR MINORS.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Possession of open beer or intoxicating liquor on streets, etc.
 11-102. Minors in beer places.
 11-103. Violation and penalty.

11-101. Possession of open beer or intoxicating liquor on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor or other alcoholic beverage in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a permit and license for on-premises consumption of such beverage. (1998 Code, § 11-101)

11-102. Minors in beer places. No person under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where

¹Municipal code references

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

²Municipal code reference

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

beer is sold at retail for consumption on the premises. (1998 Code, § 11-102, modified)

11-103. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

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

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-203. Violation and penalty.

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1998 Code, § 11-401)

11-202. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

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

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

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

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

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

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 11:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 11:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 11:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1998 Code, § 11-402, modified)

11-203. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 3**INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL****SECTION**

11-301. Impersonating a government officer or employee.

11-302. False emergency alarms.

11-303. Violation and penalty.

11-301. Impersonating a government officer or employee. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1998 Code, § 11-502)

11-302. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1998 Code, § 11-503)

11-303. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 4**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-401. Air rifles, etc.

11-402. Weapons and firearms generally.

11-403. Violation and penalty.

11-401. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1998 Code, § 11-601)

11-402. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the town. (1998 Code, § 11-603, modified)

11-403. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 5**TRESPASSING AND INTERFERENCE
WITH TRAFFIC****SECTION**

- 11-501. Trespassing.
- 11-502. Trespassing on trains.
- 11-503. Interference with traffic.
- 11-504. Violation and penalty.

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

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

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

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

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

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

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

11-502. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1998 Code, § 11-702)

11-503. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to unreasonably prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1998 Code, § 11-704)

11-504. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

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

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

11-602. Posting notices, etc.

11-603. Violation and penalty.

11-601. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1998 Code, § 11-802)

11-602. Posting notices, etc. No person shall point, make or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. (1998 Code, § 11-803, modified)

11-603. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 7

EMERGENCY ALARM DEVICES

SECTION

- 11-701. Definitions.
- 11-702. Automatic telephone dialing alarm systems.
- 11-703. False alarms.
- 11-704. Fee assessment for false alarms.
- 11-705. Violation and penalty.

11-701. Definitions. Unless it is apparent from the context that another meaning is intended, the following words used in this chapter shall have the meanings indicated herein:

(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 any assembly of equipment, mechanical or electrical, arranged to signal the fire department and/or police department that an emergency exists or that the services of that department are needed. "Alarm system" shall also mean any alarm device which automatically emits an 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 the receiving on a continuous basis emergency signals from alarm systems and thereafter relaying the message to the central dispatch facility.

(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 the central 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 whose function it is to transmit to the fire department and/or police department a need for emergency response.

(6) "Central dispatch facility" means the central communications facility of the Claiborne County Emergency Communications District which receives, routes, or otherwise handles emergency service communications traffic.

(7) "False alarm" means an alarm signal eliciting a response by the fire department and/or police department when a situation requiring a response by the fire department and/or 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. (Ord. #235, Dec. 2003)

11-702. Automatic telephone dialing alarm systems. It shall be unlawful for any person, natural or corporate, 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 fire department and/or police department. (Ord. #235, Dec. 2003)

11-703. False alarms. (1) Whenever an alarm is activated in the town requiring an emergency response to the location by fire and/or police personnel, a fire officer or police 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 fire officer or police officer at the scene of the activated alarm system determines the alarm to be false and no emergency response was necessary, then said officer shall submit a report of the false alarm to the town, or his designee, and the fire chief or police chief. A written notification of emergency response and/or determination of the response shall be mailed or delivered to the alarm user at the address or location where the alarm was activated.

(3) 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 subject to the penalty provisions contained herein.

(4) Any alarm business testing or servicing any alarm system shall notify the fire department and/or police department and central dispatch and instruct such department of the location and time of said testing or servicing. The fees provided for in § 11-704 will not apply to the alarm user if prior notice of testing or servicing has been made to the department as outlined in this section. (Ord. #235, Dec. 2003)

11-704. Fee assessment for false alarms. It is hereby found and determined that more than one (1) false alarm, within any three (3) month period is excessive and constitutes a public nuisance. The activation of two (2) or more false alarms within any three (3) month period will result in the assessment of the following fees:

(1) A service charge of one hundred dollars (\$100.00) shall be automatically levied against the alarm user upon the occurrence of the second false alarm.

(2) A service charge of one hundred fifty dollars (\$150.00) shall be automatically levied against the alarm user upon the occurrence of the third false alarm.

(3) A service charge of two hundred dollars (\$200.00) shall be automatically levied against the alarm user for each false alarm in excess of four

(4). All service charges levied shall be paid to the recorder 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 the date of the notice shall result in citation to town court.

(4) The penalties set forth in this section shall apply to both automatic telephone dialing systems and non-telephonic audible alarms. (Ord. #235, Dec. 2003, modified)

11-705. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 8**LITTERING¹****SECTION**

- 11-801. Definitions.
- 11-802. Littering offenses.
- 11-803. Scope of regulation.
- 11-804. Violation and penalty.

11-801. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Commercial purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;

(2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(3) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in Tennessee Code Annotated, § 39-17-1503(9) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked;

(4) "Refuse" includes all putrescible and nonputrescible solid waste; and

(5) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste.

11-802. Littering offenses. (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 town 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.

¹Municipal code reference
Refuse: title 17.

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

11-803. Scope of regulation. 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.

11-804. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 9

CURFEW FOR MINORS

SECTION

- 11-901. Purpose.
- 11-902. Definitions.
- 11-903. Curfew enacted; exceptions.
- 11-904. Parental involvement in violation unlawful.
- 11-905. Involvement by owner or operator of vehicle unlawful.
- 11-906. Involvement by operator or employee of establishment unlawful.
- 11-907. Giving false information unlawful.
- 11-908. Enforcement.
- 11-909. Violation and penalty.

11-901. Purpose. The purpose of this chapter is to:

- (1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the town;
- (2) Promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and
- (3) Foster and strengthen parental responsibility for children.

11-902. Definitions. As used in this chapter, the following words have the following meanings:

- (1) "Curfew hours" means the hours of 12:30 A.M. through 6:00 A.M. each day.
- (2) "Emergency" means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.
- (3) "Establishment" means any privately-owned business place within the town operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word "operator" with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.
- (4) "Minor" means any person under eighteen (18) years of age who has not been emancipated under Tennessee Code Annotated, § 29-31-101, et seq.
- (5) "Parent" means:

- (a) A person who is a minor's biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement;
 - (b) A person who is the biological or adoptive parent with whom a minor regularly resides;
 - (c) A person judicially appointed as the legal guardian of a minor; and/or
 - (d) A person eighteen (18) years of age or older standing in loco parentis as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances.
- (6) "Person" means an individual and not a legal entity.
- (7) "Public place" means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.
- (8) "Remain" means:
- (a) To linger or stay at or upon a place; or
 - (b) To fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.
- (9) "Temporary care facility" means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a temporary care facility may not be handcuffed or secured by handcuffs or otherwise to any stationary object.

11-903. Curfew enacted; exceptions. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the town, to remain in any motor vehicle operating or parked on any public place within the town, or to remain in or upon the premises of any establishment within the town, unless:

- (1) The minor is accompanied by a parent; or
- (2) The minor is involved in an emergency; or
- (3) The minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop; or
- (4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or
- (5) The minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop; or
- (6) The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the name, signature, address, and telephone number of the parent authorizing the

errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) The minor is involved in interstate travel through, or beginning or terminating in, the Town of New Tazewell; or

(8) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly.

11-904. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-903 of this chapter.

11-905. Involvement by owner or operator of vehicle unlawful. It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of § 11-903 of this chapter using the motor vehicle.

11-906. Involvement by operator or employee of establishment unlawful. It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave.

11-907. Giving false information unlawful. It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of § 11-903 of this chapter.

11-908. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-903 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his/her parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of § 11-903 and shall issue a citation requiring the minor to appear in court. In either case, the officer shall, as soon as practicable, release the minor to his/her parent(s) or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so the parent(s) may

retrieve the minor. If a minor refuses to give an officer his/her name and address or the name and address of his/her parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(2) Others. If an officer's investigation reveals that a person has violated §§ 11-903, 11-904, 11-905, or 11-906 of this chapter and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court.

11-909. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

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. MECHANICAL CODE.
7. PROPERTY MAINTENANCE CODE.
8. EXISTING BUILDING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
 12-102. Modifications.
 12-103. Available in recorder's office.
 12-104. Violation and penalty.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating 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 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code.

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

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

designated official of the Town of New Tazewell who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned.

(2) Deletions. Chapter 11 pertaining to accessibility and chapter 27 pertaining to electrical requirements and the International Electrical Code, are deleted.

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

12-104. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violation and penalty.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the International Plumbing Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code.

12-202. Modifications. (1) Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen.

(2) Wherever "Town Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code.

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1998 Code, § 12-203)

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-204. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 3

FUEL GAS CODE¹

SECTION

- 12-301. Fuel gas code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violation and penalty.

12-301. Fuel gas code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing regulations for fuel gas systems and gas-fired appliances using prescriptive and performance-related provisions, the International Fuel Gas Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the fuel gas code.

12-302. Modifications. Definitions. Whenever in the fuel gas code when reference is made to the duties of a certain official named therein, that designated official of the Town of New Tazewell who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the fuel gas code are concerned.

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-304. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

¹Municipal code reference

Gas system administration: title 19, chapter 2.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 4
RESIDENTIAL CODE

SECTION

- 12-401. Residential code adopted.
- 12-402. Modifications.
- 12-403. Available in recorder's office.
- 12-404. Violation and penalty.

12-401. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,¹ 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code.

12-402. Modifications. (1) Wherever the residential code refers to the "Building Official" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the residential code. Section R113 of the residential code is deleted.

(2) Appendix G (Swimming Pools) is added. (1998 Code, § 12-502, modified)

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1998 Code, § 12-503)

12-404. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 5

ENERGY CONSERVATION CODE¹**SECTION**

12-501. Energy conservation code adopted.

12-502. Modifications.

12-503. Available in recorder's office.

12-504. Violation and penalty.

12-501. Energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,² 2006 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy conservation code.

12-502. Modifications. Whenever the energy conservation code refers to the "Responsible Government Agency," it shall be deemed to be a reference to the Town of New Tazewell. When the "Building Official" is named it shall, for the purposes of the energy conservation code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy conservation code. (1998 Code, § 12-602, modified)

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-504. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 6

MECHANICAL CODE¹

SECTION

- 12-601. Mechanical code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violation and penalty.

12-601. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for mechanical systems using prescriptive and performance-related provisions, the International Mechanical Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code.

12-602. Modifications. Wherever the mechanical code refers to the "Administrative Authority," or the "Mechanical Authority," it shall be deemed to be a reference to the person appointed or designated by the municipal governing body to administer and enforce the provisions of the mechanical code. (1998 Code, § 12-702)

12-603. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-604. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 7

PROPERTY MAINTENANCE CODE

SECTION

12-701. Property maintenance code adopted.

12-702. Modifications.

12-703. Available in recorder's office.

12-704. Violation and penalty.

12-701. Property maintenance code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance, the International Property Maintenance Code,¹ 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the property maintenance code.

12-702. Modifications. Whenever in the property maintenance code when reference is made to the duties of a certain official named therein, that designated official of the Town of New Tazewell who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the property maintenance code are concerned.

12-703. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, 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.

12-704. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 8

EXISTING BUILDING CODE

SECTION

12-801. Existing building code adopted.

12-802. Modifications.

12-803. Available in recorder's office.

12-804. Violation and penalty.

12-801. Existing building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the International Existing Building Code,¹ 2006 edition, as prepared by the International Code Council, is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the existing building code.

12-802. Modifications. Whenever in the existing building code when reference is made to the duties of a certain official named therein, that designated official of the Town of New Tazewell who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the existing building code are concerned.

12-803. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the existing building code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public.

12-804. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNK VEHICLES.
4. SLUM CLEARANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Overgrown and dirty lots.
- 13-108. Violation and penalty.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the Town of New Tazewell. (1998 Code, § 13-101)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1998 Code, § 13-102)

13-103. Stagnant water. It shall be unlawful for any person to knowingly 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. (1998 Code, § 13-103)

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

13-104. Weeds. 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 code enforcement officer to cut such vegetation when it has reached a height of over one foot (1'). (1998 Code, § 13-104, modified)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1998 Code, § 13-105)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1998 Code, § 13-106)

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

(2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States mail, addressed to the last known address of the owner of record, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. The notice shall state that the owner of the property is entitled to a

hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-107 of the Town of New Tazewell Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the Register of Deeds in Claiborne County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs

to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

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

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (Ord. #2008-268, Feb. 2008, as amended by Ord. #2010-290, Aug. 2010)

13-108. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2**JUNKYARDS****SECTION**

13-201. Junkyards.

13-202. Violation and penalty.

13-201. Junkyards.¹ All junkyards and recycling centers (scrap metal dealers) within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1998 Code, § 13-201, modified)

13-202. Violation and penalty. Any violation 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.

¹State law reference

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

CHAPTER 3

JUNK VEHICLES

SECTION

- 13-301. Definitions.
- 13-302. Violations a civil offense.
- 13-303. Exceptions.
- 13-304. Enforcement.
- 13-305. Violation and penalty.

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

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

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

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

(4) "Vehicles" shall include:

(a) "Junk vehicle" shall mean 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" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of same. (Ord. #2008-267, Feb. 2008)

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

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

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

(3) To park, store, keep, or maintain on private property a junk vehicle. (Ord. #2008-267, Feb. 2008)

13-303. 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 town. (Ord. #2008-267, Feb. 2008)

13-304. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

- (1) Request the town judge to issue a summons; or
- (2) Request a police officer to witness the violation.

The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized in 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. In addition, pursuant to Tennessee Code Annotated, § 55-5-122, municipal courts may issue orders to remove vehicles from private property. (Ord. #2008-267, Feb. 2008)

13-305. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 4

SLUM CLEARANCE¹

SECTION

- 13-401. Findings of board.
- 13-402. Definitions.
- 13-403. "Public officer" designated; powers.
- 13-404. Initiation of proceedings; hearings.
- 13-405. Orders to owners of unfit structures.
- 13-406. When public officer may repair, etc.
- 13-407. When public officer may remove or demolish.
- 13-408. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-409. Basis for a finding of unfitness.
- 13-410. Service of complaints or orders.
- 13-411. Enjoining enforcement of orders.
- 13-412. Additional powers of public officer.
- 13-413. Powers conferred are supplemental.
- 13-414. Structures unfit for human habitation deemed unlawful.

13-401. Findings of board. Pursuant to Tennessee Code Annotated § 13-41-101, *et seq.*, the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

13-402. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the Town of New Tazewell, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

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

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

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

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

13-403. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the code enforcement officer of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the code enforcement officer.

13-404. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

13-405. 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.

13-406. 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."

13-407. 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, with approval of the board of mayor and aldermen, may cause such structure to be removed and demolished.

13-408. 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 Claiborne County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of New Tazewell to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-409. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of New Tazewell. 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 uncleanness.

13-410. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Claiborne County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-411. 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.

13-412. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

- (1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-413. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-414. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

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

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

1. REGIONAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOODPLAIN MANAGEMENT REGULATIONS.
4. MOBILE HOME PARKS.

CHAPTER 1**REGIONAL PLANNING COMMISSION****SECTION**

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a regional 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 and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. At least two (2) members of the planning commission, designated as a regional planning commission in § 14-103, shall reside within the regional area outside of the municipal boundaries served by the regional planning commission. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure.

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

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

¹State law reference

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

CHAPTER 2**ZONING ORDINANCE****SECTION**

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

14-202. Violation and penalty.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of New Tazewell shall be governed by Ordinance #56, titled "Zoning Ordinance, New Tazewell, Tennessee," and any amendments thereto.¹ (1998 Code, § 14-201)

14-202. Violation and penalty. Any violation of the zoning ordinance 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.

¹The Zoning Ordinance, Town of New Tazewell (and any amendments thereto) are of record in the office of the recorder.

Amendments to the zoning map are of record in the office of the recorder.

CHAPTER 3

FLOODPLAIN MANAGEMENT REGULATIONS

SECTION

- 14-301. Statutory authorization, findings of fact, purpose and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.
- 14-307. Legal status provisions.

14-301. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 6-2-201, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the New Tazewell Board of Mayor and Aldermen, does ordain as follows:

(2) Findings of fact. (a) The New Tazewell Board of Mayor and Aldermen wishes to maintain eligibility in the national flood insurance program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 C.F.R. ch. 1 (10-1-04 edition).

(b) Areas of New Tazewell are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is adequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(4) **Objectives.** The objectives of this chapter are:

(a) To protect human life, health and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize blights in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the national flood insurance program. (Ord. #2011-296, Oct. 2011)

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the national flood insurance program that are incorporated in 42 U.S.C. 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(8) "Base flood" the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other

structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

(13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(19) "Existing structures." See "existing construction."

(20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood

level that has a one percent (1%) or greater chance of occurrence in any given year.

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) or flood-related erosion hazards.

(24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(28) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(30) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated and cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which

due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(34) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(41) "Levee system" means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(42) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(43) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of the ordinance comprising this chapter or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of the ordinance comprising this chapter or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(51) "100-year flood." See "base flood."

(52) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(53) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(54) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a

basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency." The Tennessee Department of Economic and Community Development as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the national flood insurance program for the state.

(59) "Structure," for the purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

- (a) The appraised value of the structure prior to the start of the initial repair or improvement; or
- (b) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been preidentified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods or various magnitudes and frequencies in the floodplains or riverine areas. (Ord. #2011-296, Oct. 2011)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of New Tazewell, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of New Tazewell, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) Number 47025CV000A, Claiborne County, Tennessee; Flood Insurance Rate Maps (FIRMs), Community Number 470030; Panel Number 4725C0230D; effective date September 25, 2009 and, Flood Insurance Study Number 47025CV000B, Claiborne County, Tennessee; and the Flood Insurance Rate Maps (FIRMs), Community Number 470030; Panel Numbers 4725C0225E and 4725C0240E; effective date November 2, 2011; along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any developmental activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;

- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of New Tazewell, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of New Tazewell, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #2011-296, Oct. 2011)

14-304. Administration. (1) Designation of ordinance administrator. The building official is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to, the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-304(2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A Zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A Zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal

Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-304(2).

(f) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been floodproofed, in accordance with § 14-304(2).

(g) When floodproofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-304(2).

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this chapter.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter. All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2).

(j) All records pertaining to the provisions of this chapter shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #2011-296, Oct. 2011)

14-305. Provisions for flood hazard reduction. (1) General standards. In all flood-prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter; and

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a

structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-305(2).

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2).

Buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-305(2) of this chapter.

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions.

Must meet all the requirements of new construction, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or

(B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-305(2)(d) of this chapter.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) days;

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-303(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other

developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase to the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-305.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-305(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-303, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-303, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-305. Only if data is not available from these sources, then the following provisions (b) and (c) shall apply.

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty

feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-305(2) and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-305(2), and "elevated buildings."

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed to at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such

certification to the administrator as set forth above and as required in § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A99 Zones). Located within the areas of special flood hazard established in § 14-303 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A99 Zones) all provisions of §§ 14-304 and 14-305(1) shall apply.

(8) Standards for unmapped streams. Located within New Tazewell, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-304. (Ord. #2011-296, Oct. 2011)

14-306. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. The New Tazewell Board of Zoning Appeals shall be established as the board of floodplain review. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record.

Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the ground thereof. In all cases where an appeal is made by a property owner or other interested party, a fee for the cost of publishing a notice of such hearing shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirements, permit, decision, determination, or refusal made by the administrator or other administrative official in the carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The New Tazewell Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the town;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. #2011-296, Oct. 2011)

14-307. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of New Tazewell, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional.

(3) Effective date. The ordinance comprising this chapter shall become effective immediately after its passage, in accordance with the Charter of the Town of New Tazewell, Tennessee, and the public welfare demanding it. (Ord. #2011-296, Oct. 2011)

CHAPTER 4**MOBILE HOME PARKS****SECTION**

- 14-401. Definitions.
- 14-402. Location of mobile homes.
- 14-403. Compliance with construction standards required.
- 14-404. Installation requirements.
- 14-405. Permit for single mobile home installation,
- 14-406. Location and planning.
- 14-407. Minimum size of mobile home park.
- 14-408. Minimum number of spaces.
- 14-409. Minimum mobile homes space and spacing of mobile homes.
- 14-410. Water supply.
- 14-411. Sewage disposal.
- 14-412. Refuse.
- 14-413. Electricity.
- 14-414. Streets.
- 14-415. Parking spaces.
- 14-416. Buffer strip.
- 14-417. A complete list of owners of mobile homes.
- 14-418. Enforcement.
- 14-419. Board of appeals.
- 14-420. Appeals from board of appeals.
- 14-421. Violation and penalty.

14-401. Definitions. (1) "Health officer." The director of the city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative. The Town of New Tazewell's Health Inspector is the Claiborne County Health Department Inspector.

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

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

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

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for

occupancy except for minor and incidental unpacking and assembly operations, connection to utilities and the like.

(d) "Mobile home" does not include travel trailers, Recreational Vehicles (RVs), campers, or tents which are prohibited in mobile home parks.

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

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

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

14-402. Location of mobile homes. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the town where the mobile home is outside of any designated mobile home park after December 31, 2007. The use of a single wide mobile home other than as a residential dwelling in an approved mobile home park is prohibited.

14-403. Compliance with construction standards required. No mobile home shall be used, placed, stored or serviced by utilities within any mobile home park in the town unless it displays the appropriate decal(s) evidencing compliance with the applicable construction standards pursuant to the "Uniform Standards Code for Manufactured Homes," Tennessee Code Annotated, title 68, chapter 126, is built to the Manufactured Home Construction and Safety Standards (HUD code) and displays a red certification label on the exterior of each transportable section.

14-404. Installation requirements. Mobile home installations shall comply with the "Tennessee Manufactured Home Installation Act," Tennessee Code Annotated, § 68-126-401, et seq.

14-405. Permit for single mobile home installation. A permit is required for the installation of a mobile home in a mobile home park.

14-406. Location and planning. A mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the town planning commission and town building inspector. The town planning commission and building inspector may promulgate regulations for mobile home park location and plan approval, which shall provide for adequate space, lighting, drainage, sanitary facilities, safety features, and service buildings as

may be necessary to protect the public health, prevent nuisances, and provide for the convenience and welfare of the mobile home park occupants.

14-407. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.

14-408. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is ten (10).

14-409. Minimum mobile homes space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen feet (15') of open space between mobile homes or any attachment such as a garage or porch, and at least ten feet (10') end to end spacing between trailers and any building or structure, twenty feet (20') between any trailer and property line and twenty-five feet (25') from the right-of-way of any public street or highway.

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

- (1) Minimum lot area of two thousand four hundred (2,400) square feet;
- (2) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty feet (30');
- (3) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen feet (15'); and
- (4) In no case shall the minimum width be less than forty feet (40') and the minimum depth less than sixty feet (60').

14-410. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the trailer court operator to provide such treatment as is deemed necessary to maintain a safe, potable water supply. Water shall be furnished at the minimum rate of one hundred twenty-five (125) gallons per day per mobile home space. An additional

water service connection shall be provided for each mobile home space, with meter for each individual trailer.

14-411. Sewage disposal.¹ An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate must be determined according to the "Percolation Test Procedures" in the Official Compilation of the Rules and Regulations of the State of Tennessee, which may be found online at http://state.tn.us/sos/rules/1200/1200_01/1200_01_06.pdf. No mobile home shall be placed over a soil absorption field.

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

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

14-412. Refuse.² The storage, collection and disposal of refuse in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly-proof, water tight and rodent-proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

14-413. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the current electrical code adopted by

¹Municipal code reference
Sewage disposal: title 18, chapter 1.

²Municipal code reference
Refuse: title 17, chapter 1.

the State of Tennessee, and shall satisfy all requirements of the local electric service organization.

14-414. Streets. Widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	11 ft.
One-way, with parallel parking on one (1) side only	18 ft.
One-way, with parallel parking on both sides	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one (1) side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

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

14-415. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home space. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten feet (10') and a length of not less than twenty feet (20'). The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

14-416. Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home court that are adjacent to development.

14-417. A complete list of owners of mobile homes. Mobile home parks shall keep a complete list of who owns the mobile home on each lot and a list of who reside(s) in each mobile home.

14-418. Enforcement. It shall be the duty of the county health officer and town building inspector to enforce provisions of this chapter.

14-419. Board of appeals. The planning commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

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

exercising this power of interpretation of this chapter, the planning commission may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

14-420. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the town aggrieved by any decision of the planning commission may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee.

14-421. Violation and penalty. Any person or corporation who violates the provisions of the chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the town building inspector or county health officer after receipt of thirty (30) days' written notice of such requirements, shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1**MISCELLANEOUS²****SECTION**

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

¹Municipal code reference

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

²State law references

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

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

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1998 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. (1998 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1998 Code, § 15-104)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town 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. (1998 Code, § 15-105)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle

within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1998 Code, § 15-106)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1998 Code, § 15-107)

15-107. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1998 Code, § 15-108)

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 town. (1998 Code, § 15-109, modified)

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1998 Code, § 15-110)

¹Municipal code references

Stop signs, yield signs, flashing signals, traffic-control signals generally: §§ 15-505--15-508.

15-110. Presumption with respect to traffic-control signs, etc.

When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. (1998 Code, § 15-111)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1998 Code, § 15-112)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1998 Code, § 15-113)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1998 Code, § 15-114)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1998 Code, § 15-115)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1998 Code, § 15-116)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1998 Code, § 15-117)

15-117. Causing unnecessary noise. It shall be unlawful, within the town, 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. (1998 Code, § 15-118)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988." (1998 Code, § 15-119, modified)

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

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1998 Code, § 15-120)

15-120. Motorcycles, motor-driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred (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 (125) cubic centimeters;

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor-driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor-driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor-driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor-driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor-driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor-driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) (a) Each driver of a motorcycle, motor-driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 C.F.R. 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 C.F.R. 571.218;

(ii) Notwithstanding any provision in 49 C.F.R. 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 C.F.R. 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 C.F.R. 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 (CPSM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred (1,500) pounds 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. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) years of age or older.

(b) "Automobile" shall mean any motor-driven automobile, car, truck, tractor, motorcycle, motor-driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well-being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Driver's license" shall mean a motor vehicle operator's license or chauffeur's license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean 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 chauffeur's license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of New Tazewell unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-122. Commercial vehicles prohibited from using certain streets. The operator of any commercial vehicle exceeding fourteen thousand (14,000) pounds GVW with or without its load, shall confine the movement of such vehicle to streets or highways that are designated as state or federal highways, except that such vehicles may be operated on town streets for the purpose of delivering or picking up materials or merchandise and then only by taking the shortest and most direct route from a state or federal highway to the point of delivery or pick-up and returning in the same manner. (1998 Code, § 15-123)

15-123. Compliance with financial responsibility law required.

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

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision of title 15 of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106 the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial

Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued.

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or the town's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected. (Ord. #213, March 2002)

15-124. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, and Tennessee Code Annotated, § 55-10-307, the Town of New Tazewell 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 through 55-8-131, 55-8-133 through 55-8-150, and 55-8-152 through 55-8-180. Additionally, the Town of New Tazewell adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, 55-9-601 through 55-9-606, 55-12-139, and 55-21-108 by reference as if fully set forth in this section. (Ord. #258, Nov. 2006, modified)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.
- 15-205. Violation and penalty.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the board of mayor and aldermen. (1998 Code, § 15-201)

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

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

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1998 Code, § 15-202, modified)

15-203. Following emergency vehicles. No driver of any vehicle other than one on official business shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1998 Code, § 15-203, modified)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1998 Code, § 15-204)

15-205. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 3**SPEED LIMITS****SECTION**

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1998 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1998 Code, § 15-302)

15-303. In school zones. Pursuant to Tennessee Code Annotated, § 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this subsection.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. Every driver who intends to turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1998 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (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. (1998 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (1998 Code, § 15-405)

CHAPTER 5**STOPPING AND YIELDING****SECTION**

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

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed.

15-503. At railroad crossings. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

- (a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
- (c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic-control signal.

15-505. At "yield" signs. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls.

15-506. At traffic-control signals generally. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone, or "Caution," when shown following the green or "Go" signal:

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. A right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the town where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn of Red" sign, which may be erected by the town at intersections which the town decides requires no left turns on red in the interest of traffic safety.

(d) The driver of a motorcycle approaching an intersection that is controlled by a traffic-control signal utilizing a vehicle detection device that is inoperative due to the size of the motorcycle shall come to a full and complete stop at the intersection and, after exercising due care as provided by law, may proceed with due caution when it is safe to do so. It is not a defense to § 15-506, "At traffic-control signals generally," that the driver of a motorcycle proceeded under the belief that a traffic-control signal utilized a vehicle detection device or was inoperative due to the

size of the motorcycle when such signal did not utilize a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(4) Steady red with green arrow:

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

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

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

15-507. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

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

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

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

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) Walk. Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed

crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

15-509. Stops to be signaled. Every driver operating a motor vehicle who intends to stop such vehicle, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give the signal required in Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Special restrictions for trucks and trailers.
- 15-607. Presumption with respect to illegal parking.
- 15-608. Violation and penalty.

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

Except as hereinafter provided, every vehicle parked upon a street within the Town of New Tazewell 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 town 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 central business district or the highway business district¹ 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. (1998 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the town 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'). (1998 Code, § 15-602)

¹See the zoning map of record in the recorder's office.

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1998 Code, § 15-603)

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

- (1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within twenty feet (20') of a crosswalk at an intersection;
- (7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (8) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;
- (10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:
 - (a) Physically handicapped; or
 - (b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21.

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1998 Code, § 15-605)

15-606. Special restrictions for trucks and trailers. No person shall park any truck or trailer in excess of one-half ton capacity, or truck power unit or tractor in excess of one-half (1/2) ton in weight, upon either side of any street in front of or adjacent to any residence, church, school, hospital, business, or playground for more than two (2) consecutive hours. The provisions of this section shall not be deemed to prohibit the lawful parking of such equipment upon any street for the actual loading or unloading of goods, wares, or merchandise, provided, however, that "loading" and "unloading" as used in this section shall be limited to the actual time consumed in such operation. Also this section shall not prohibit such parking when reasonably necessitated by a breakdown or other emergency provided the chief of police is promptly notified of the circumstances. (1998 Code, § 15-606)

15-607. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1998 Code, § 15-607)

15-608. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver's license in lieu of bail.
- 15-707. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1998 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1998 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (1998 Code, § 15-703, modified)

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

¹State law reference

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

vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1998 Code, § 15-705)

15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq.

15-707. Violation and penalty.¹ Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty for each separate offense.

(2) Parking citations. For parking violations other than handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying a fine to the recorder, provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant is issued for his arrest, a civil penalty shall be assessed. (1998 Code, § 15-707, modified)

¹Fines and penalties for traffic and parking citations, as amended from time to time, are available in the office of the recorder.

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. PROPERTY NUMBERING SYSTEM.
4. PARADES.

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. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.
- 16-112. Street names.
- 16-113. Violation 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. (1998 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1998 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

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

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1998 Code, § 16-103)

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

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1998 Code, § 16-104)

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

It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign.

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. (1998 Code, § 16-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1998 Code, § 16-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1998 Code, § 16-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1998 Code, § 16-109)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. 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. (1998 Code, § 16-112)

16-111. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1998 Code, § 16-113)

16-112. Street names. All streets in the Town of New Tazewell shall be officially known by the names as shown on the Street Index Map, Tazewell–New Tazewell, Tennessee, as prepared by the Tennessee State Planning Commission in October of 1966, and any amendments thereto, and which is of record in the recorder's office. (1998 Code, § 16-114, modified)

16-113. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.
- 16-211. Violation and penalty.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1998 Code, § 16-201, modified)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an

¹State law reference

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

agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1998 Code, § 16-202)

16-203. Fee. The fee for such permits shall be fifty dollars (\$50.00) for excavations or tunnels. (1998 Code, § 16-203, modified)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1998 Code, § 16-204, modified)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1998 Code, § 16-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore said street, alley, or public place to its original condition. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an

accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1998 Code, § 16-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance shall not be less than three hundred thousand dollars (\$300,000.00) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act, and not less than seven hundred thousand dollars (\$700,000.00) for bodily injury or death of all persons in any one (1) accident, occurrence or act, and one hundred thousand dollars (\$100,000.00) for injury or destruction of property of others in any one (1) accident, occurrence or act. (1998 Code, § 16-207, modified)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1998 Code, § 16-208, modified)

16-209. Supervision. The code official shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1998 Code, § 16-209, modified)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. Driveway aprons shall not extend out into the street. (1998 Code, § 16-210)

16-211. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 3

PROPERTY NUMBERING SYSTEM

SECTION

- 16-301. Property numbering system adopted.
- 16-302. Property to be numbered.
- 16-303. Requirements.
- 16-304. Administration.
- 16-305. Violation and penalty.

16-301. Property numbering system adopted. A uniform system of property numbering, as depicted on the "Property Numbering Map of New Tazewell, Tennessee," is hereby adopted and made a part of this chapter. (1998 Code, § 16-301)

16-302. Property to be numbered. All properties or parcels of land within the corporate limits of New Tazewell, Tennessee shall hereafter be identified by reference to the uniform numbering system adopted herein provided; all existing numbers of property and building not now in conformity with provisions of this chapter shall be changed to conform to the system herein adopted within two (2) months from the date of passage of this chapter.

(1) A separate number shall be assigned according to the interval designed in the following schedule and as indicated on the accompanying maps of record in the recorder's office.

(2) Within zone 1, a separate number shall be assigned for each twenty-five feet (25') of frontage.

(3) Within zone 2, a separate number shall be assigned for each fifty feet (50') of frontage. (1998 Code, § 16-302, modified)

16-303. Requirements. The requirements of the property numbering system are as follows:

(1) Each principal building shall bear the number assigned to the frontage in which it is located. Buildings which contain one (1) use and cover more than one (1) frontage shall bear the number which most of the building fronts.

(2) Buildings which contain more than one (1) use but have one (1) frontage shall bear the number assigned to the frontage in which it is located. Each use shall bear a letter to identify the individual use in the building.

(3) When several uses are contained in one (1) building which has more than one (1) frontage, each use shall bear a number assigned to the frontage in which it is located. If two (2) or more uses have one (1) frontage, the individual uses will bear a letter for identification.

(4) The numeral indicating the official numbers for each principal building or each front entrance to such buildings shall be posted in a manner as to be visible from the street on which the property is located. (1998 Code, § 16-303, modified)

16-304. Administration. The recorder shall be responsible for maintaining the numbering system. In the performance of this responsibility he shall be guided by the provisions of § 16-302. (1998 Code, § 16-304, modified)

16-305. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 4**PARADES****SECTION**

- 16-401. Definitions.
- 16-402. Purposes.
- 16-403. Permit.
- 16-404. Application.
- 16-405. Standards for issuance.
- 16-406. Content of permit.
- 16-407. Duties of permittee.
- 16-408. Revocation of permit.
- 16-409. Notice to town officials.
- 16-410. Violation and penalty.

16-401. Definitions. The following words, for the purpose of this chapter, shall have the following meanings:

- (1) "Board of mayor and aldermen" is the Board of Mayor and Aldermen of New Tazewell.
- (2) "Chief of police" is the Chief of Police of New Tazewell.
- (3) "Parade" is any meeting, parade, demonstration, exhibition, festival, homecoming, assembly, or other such event to be held in or upon any street, park, or other public place in New Tazewell.
- (4) "Parade permit" is a permit as required by this chapter.
- (5) "Person" is any person, firm, group, partnership, association, corporation, company, or organization of any kind.
- (6) "Recorder" is the Recorder of the Town New Tazewell.
- (7) "Town" is the Town of New Tazewell.

(Ord. #218, Sept. 2002)

16-402. Purposes. (1) The Town of New Tazewell recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs.

(2) The town passes this chapter to regulate the time, place, and manner of parades.

(3) The town passes this chapter in the interest of all its citizens' public safety, health, welfare, comfort, and convenience.

(4) The Town of New Tazewell has limited resources and passes this chapter so that it may properly allocate these resources among its citizens.

(5) The purpose of this chapter is to promote order, safety, and tranquility in the streets of the town.

(6) This chapter is passed to help minimize traffic and business interruptions during parades. (Ord. #218, Sept. 2002)

16-403. Permit. (1) No person shall parade unless a parade permit has been obtained from the board of mayor and aldermen. Any parade held without the proper permit shall be unlawful.

(2) This chapter shall not apply to funeral processions, students going to and from school classes or participation in educational activities or other school activities such as sports events, providing that such conduct is under the immediate direction and supervision of the proper school authorities and a governmental agency acting within the scope of its functions and in events sponsored by the town.

(3) The permit application fee is fifty dollars (\$50.00) and may be waived by the board of mayor and aldermen for a certified nonprofit organization.

(4) It shall be unlawful for any person to parade without first having obtained a permit as required by this chapter.

(5) It shall be unlawful for any person to participate in a parade on the streets of New Tazewell for which a permit has not been granted.

(6) It shall be unlawful for any person to fail to comply with all directions and conditions of the parade permit. (Ord. #218, Sept. 2002, modified)

16-404. Application. (1) Any person seeking issuance of a parade permit shall file an application with the recorder on forms provided by the recorder. The recorder shall place the request for a parade permit on the agenda of the next meeting of the board of mayor and aldermen for action by it in the normal course of business.

(2) The application for a parade permit shall be filed in writing with the recorder not less than thirty (30) days prior to the contemplated parade or five (5) days prior to any regularly scheduled called meeting of the board of mayor and aldermen. No permit shall be granted sooner than one hundred eighty (180) days prior to the contemplated parade. A copy of the application shall be given to the chief of police who shall investigate and make a report to the board of mayor and aldermen.

(3) The application for a parade permit shall set forth the following information:

(a) The name, address and telephone number of the person seeking to conduct a parade or of the organization and its responsible heads;

(b) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;

(c) The date when the parade is to be conducted;

(d) The route to be traveled, the starting point, and the termination point;

- (e) The approximate number of persons who and animals which, will constitute such parade; the type of animal and description of all vehicles;
 - (f) The hours when the parade will begin and end;
 - (g) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
 - (h) The location by streets of any assembly area(s);
 - (i) The time at which units of the parade will begin to assemble at any assembly area(s);
 - (j) The interval of space to be maintained between units of the parade; and
 - (k) If the parade is to be held on behalf of any person other than the applicant, the authorization of that person;
 - (l) Whether the applicant has been convicted for the violation of the town parade ordinance of the Town of New Tazewell.
- (4) The board of mayor and aldermen shall decide whether to grant the application for a permit. The board of mayor and aldermen may consult with the chief of police in making their decision.
- (5) The board of mayor and aldermen in cooperation with the chief of police shall have the authority to designate the starting point, route, terminal point, or other time, place, and manner restrictions as deemed proper in consideration of minimum traffic interruptions, public safety, health, welfare, convenience, peace, or order. (Ord. #218, Sept. 2002, modified)

16-405. Standards for issuance. (1) The mayor and board of aldermen shall issue a parade permit upon consideration of the application and other information obtained when they find that:

- (a) The conduct of the parade will not unduly interrupt the safe and orderly movement of other traffic contiguous to its route;
 - (b) The conduct of the parade will not require the diversion or interruption of essential or emergency municipal services, including police, fire, or ambulance services;
 - (c) The parade is scheduled to move from its origin to its termination expeditiously and without unreasonable delay;
 - (d) The applicant has satisfied the bond requirement; and
 - (e) No other permit has been granted for the same day.
- (2) A permit shall be granted to the first person properly applying under the requirements of this chapter.
- (3) No permit shall be granted for a parade except those restricted to the following time: No earlier than 11:00 A.M. and no later than 12:00 midnight prevailing time.
- (4) No permit shall be granted to any person until the applicant has posted in advance a two hundred fifty dollar (\$250.00) bond to cover the reasonable expenses incurred in the clean up efforts after the parade. The

mayor and board of aldermen may waive this fee upon application of a certified nonprofit organization.

(5) The recorder shall notify the applicant within five (5) days after the action of the board of mayor and aldermen whether the permit has been granted or denied. If the permit has been denied, the recorder shall set forth the reasons why the board of mayor and aldermen denied the permit.

(6) In computing any period of time set out in this chapter, no Saturdays, Sundays, or holidays are to be computed in the time period. (Ord. #218, Sept. 2002)

16-406. Content of permit. Each parade permit shall state the following:

- (1) Assembly and disassembly time and place;
- (2) Starting time;
- (3) The route and the portions of the streets to be traversed that may be occupied by the parade;
- (4) Minimum speed;
- (5) Maximum speed;
- (6) Interval of space between parade units;
- (7) The maximum length of the parade in miles or fractions thereof;
- (8) Other information as the board of mayor and aldermen in cooperation with the chief of police shall find necessary to the enforcement of this chapter. (Ord. #218, Sept. 2002)

16-407. Duties of permittee. (1) A permittee shall comply with all permit application information, permit directions and conditions, and with all applicable laws and chapters.

(2) The permittee shall advise parade participants of such permit requirements.

(3) The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the parade.

(4) All permittees who hold a parade permit that includes animals shall be responsible for the clean up after the animals immediately after the parade.

(5) The applicant shall assure the board that neither the parade nor the assembly point will interfere with or unreasonably obstruct the response capabilities of the fire fighting equipment and other emergency response vehicles. (Ord. #218, Sept. 2002)

16-408. Revocation of permit. (1) The board of mayor and aldermen or their designee shall have the authority to revoke a parade permit issued hereunder prior to the parade upon the application of the standards for issuance as herein set forth if it is found that:

(a) Applicant materially misrepresented facts or information in the application; and/or

(b) Applicant failed to meet the standards for issuance set forth herein.

(2) The board of mayor and aldermen or their designee shall have the authority to revoke the permit during the parade and disassemble the parade if:

(a) A public emergency arises requiring such revocation to protect the safety of persons or property; or

(b) Disorderly conduct, riots, lawless activity, violence, or other breach of the peace, incited by parade participants, occurs. (Ord. #218, Sept. 2002)

16-409. Notice to town officials. Immediately upon the issuance of a parade permit, the recorder shall send a copy of the permit to the following:

(1) The mayor;

(2) The town attorney;

(3) The fire chief;

(4) The ambulance authority; and

(5) The chief of police. (Ord. #218, Sept. 2002)

16-410. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection vehicles.
- 17-107. Disposal.
- 17-108. Burning.
- 17-109. Persons engaged in business of landscaping or trimming, repairing, etc. of trees and shrubbery.
- 17-110. Violation and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1998 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this

¹Municipal code reference

Property maintenance regulations: title 13.

maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town handles mechanically, the combined weight of any refuse container and its contents shall not exceed fifty (50) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than fifty (50) pounds each and being not more than two feet (2') thick before being deposited for collection.

17-104. Location of containers. Where alleys are used by the refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1998 Code, § 17-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1998 Code, § 17-105)

17-106. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1998 Code, § 17-106)

17-107. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1998 Code, § 17-107)

17-108. Burning. It shall be unlawful for any person to start, or cause to be started, any fire outside of any building within the corporate limits for the purpose of burning refuse except in an incinerator approved by the chief of the fire department. The provisions of this section shall not apply when such refuse is burned at a place more than one hundred feet (100') from the nearest building

or property line and such reasonable safety precautions are taken as the chief of the fire department may prescribe. (1998 Code, § 17-108)

17-109. Persons engaged in business of landscaping or trimming, repairing, etc. of trees and shrubbery. No person shall perform any service of economic gain wherein trees or shrubbery are cut, trimmed, removed or altered, and wherein an accumulation of brush, wood, vines, debris or other refuse attendant to landscaping as a result of such work or service without being equipped with a truck or other vehicle capable of removing said brush, wood, vines, debris or other refuse which shall be so removed by the person causing or creating its accumulation.

17-110. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS.

CHAPTER 1

WATER AND SEWERS

SECTION

18-101. Water and sewer regulations.

18-102. Sewage disposal methods.

18-101. Water and sewer regulations. Water and sewer services and regulations are provided by the Claiborne Utility District.

18-102. Sewage disposal methods. All sewage disposal methods must be in compliance with current county and state regulations.

¹Municipal code references

Building, utility and residential codes: title 12.

Plumbing code: title 12.

Refuse disposal: title 17.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.¹ 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. (1998 Code, § 19-101)

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

CHAPTER 2**GAS**¹**SECTION**

19-201. To be furnished under franchise.

19-201. 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.² (1998 Code, § 19-201)

¹Municipal code reference
Gas code: title 12.

²The agreements are of record in the office of the recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. FAIR HOUSING REGULATIONS.
2. PARKS.

CHAPTER 1

FAIR HOUSING REGULATIONS

SECTION

20-101. Policy.

20-101. Policy. It is the policy of the Town of New Tazewell to provide, within constitutional limitations, for fair housing throughout the town as provided in Tennessee Code Annotated, title 4, chapter 21, part 6. (1998 Code, § 20-201, modified)

CHAPTER 2

PARKS

SECTION

20-201. Rules and regulations for use of town parks.

20-202. Fees.

20-203. Hours of operation.

20-204. Violation and penalty.

20-201. Rules and regulations for use of town parks. The following rules and regulations are established for all town parks and it shall be unlawful for anyone to violate said rules and regulations.

(1) No person shall injure or damage the grounds or any structure, rock, tree, shrub, flower, bird or animal within any park nor shall he gather limbs, brush, or trees.

(2) Firearms shall be prohibited at all times except by authorized personnel as authorized in Resolution #274, adopted on September 11, 2009.

(3) Bows, slingshots and other missile or projectile throwing devices are prohibited except for the use of bows in designated archery ranges. Bows shall be used under supervision of park personnel or other authorized persons only.

(4) All animals and/or pets other than service animals are prohibited in all parks.

(5) No vending or advertising of merchandise shall be permitted without permission of the board of mayor and aldermen.

(6) Motorists shall observe speed limits as posted and park only in designated areas.

(7) All vehicles, including bicycles and motorcycles, must remain on paved roadways inside park areas, which park areas are defined as any and all property owned or leased by the Town of New Tazewell, Tennessee.

(8) No alcoholic beverages of any kind shall be permitted in any park area.

(9) Unauthorized running or rough play shall not be permitted in any swimming area.

(10) All persons using the facilities of any park must pay the fees designated by the board of mayor and aldermen before engaging in use of the facilities.

(11) No person shall use any park within the town except for recreation purposes or use to which such property is customarily devoted.

(12) No carnival, circus, rodeo or similar show or attraction may operate in any town park without prior permission of the board of mayor and aldermen.

(13) Any carnival, circus, rodeo, group, club, individual, firm or corporation using a park for any purpose or sponsoring or promoting any activity

therein, must agree to repair any damage done to fields, fences, stands, light poles, structure, landscaping or other improvements caused by its use of park facilities, and shall further agree to clear the park of all rubbish, trash, or other debris immediately after said use. Any violation of this section shall result in forfeiture of the right to further use of the park.

(14) Overnight camping is prohibited in town parks except in any areas which may be clearly designated and signed for such use.

(15) Fires are prohibited in town parks except in barbecues or fire rings which are designated for public use. (1998 Code, § 20-401, modified)

20-202. Fees. The board of mayor and aldermen may from time to time establish, at their discretion, a fee schedule for use of certain parks and for facilities. Said fees shall be established by resolution. (1998 Code, § 20-402)

20-203. Hours of operation. To protect the residential areas of the town from undue disturbance and to also preserve the safety of users of town parks, the board of mayor and aldermen may establish by resolution hours of operation of town parks. Due to differing locations and types of use, hours of operation may vary from park to park. Certain facilities within the parks may be designated for different hours of operation than the park as a whole. No person or group shall use any park or its facilities outside hours established for their use. (1998 Code, § 20-403)

20-204. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

APPENDIX A

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.

APPENDIX A

PLAN OF OPERATION FOR THE
OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR
EMPLOYEES OF THE TOWN OF NEW TAZEWELL

I.	Purpose and coverage.	A-2
II.	Definitions.. . . .	A-3
III.	Employer's rights and duties.. . . .	A-5
IV.	Employee's rights and duties.. . . .	A-6
V.	Administration.. . . .	A-7
VI.	Standards authorized.. . . .	A-8
VII.	Variance procedure.. . . .	A-9
VIII.	Recordkeeping and reporting.. . . .	A-10
IX.	Employee complaint procedure.. . . .	A-10
X.	Education and training.. . . .	A-11
XI.	General inspection procedures.. . . .	A-13
XII.	Imminent danger procedures.. . . .	A-14
XIII.	Abatement orders and hearings.. . . .	A-15
XIV.	Penalties.. . . .	A-16
XV.	Confidentiality of privileged information.. . . .	A-16
XVI.	Compliance with other laws not excused.. . . .	A-17

APPENDICES

I.	Organizational chart.	A-18
II.	Employee notification	A-19
III.	Program budget.. . . .	A-21
IV.	Accident reporting procedures.	A-22

I. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the Town of New Tazewell.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of New Tazewell in electing to update and maintain an effective occupational safety and health program for its employees will:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the

Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. Definitions. For the purposes of this program, the following definitions apply:

- a. "Act" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- b. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- c. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, town manager, general manager, etc., as may be applicable.
- d. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and

Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- e. "Director of occupational safety and health" or "director" means the person designated by passing the resolution, to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program for the employees of the Town of New Tazewell.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "Employer" means the Town of New Tazewell and includes each administrative department, board, commission, division, or other agency of the Town of New Tazewell.
- h. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- i. "Governing body" means the County Quarterly Court, board of aldermen, board of commissioners, town council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- j. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- k. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.
- l. "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.
- m. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an

eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- n. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

III. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program.

IV. Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed or corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

- g. Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence.

V. Administration. a. The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

- 1. The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
- 2. The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.
- 3. The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
- 4. The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.

5. The director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of section 1 of this plan.
 6. The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The director shall maintain or cause to be maintained records required under section VIII of this plan.
 9. The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix IV of this plan.

VI. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the

future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

VII. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer:

- i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective program for coming into compliance with the standard as quickly as possible.
2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. Recordkeeping and reporting. a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970, (revised 1978) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

- b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix II to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix IV to this plan.

IX. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should

- sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section 1 of this plan).
- b. Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
 - c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
 - d. The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
 - e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.
 - f. Copies of all complaint and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. Education and training. a. Director and/or compliance inspector(s).

1. Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars,

workshops, etc., conducted by the State of Tennessee or other agencies.

2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All employees (including supervisory personnel).
A suitable safety and health training program for employees will be established. This program will, at a minimum:
1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
 2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
 3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
 4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHAct Standards (1910 and/or 1926).
 5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use

of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

- iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. General inspection procedures. It is the intention of the governing body and the responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or

inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigate techniques.
- g. Advance notice of inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees of their authorized representative(s) will also be given notice of the inspection.
- h. The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors of other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.
 - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.
- i. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. Imminent danger procedures.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - 2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be

made an immediate inspection of the alleged imminent danger location.

3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.
5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.

b. Refusal to abate.

1. Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.
2. The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement.

XIII. Abatement orders and hearings.

- a. Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:
 1. Issue an abatement order to the head of the worksite.
 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

- b. Abatement orders shall contain the following information:
 - 1. The standard, rule, or regulation which was found to be violated.
 - 2. A description of the nature and location of the violation.
 - 3. A description of what is required to abate or correct the violation.
 - 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. Penalties.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 - 1. Oral reprimand.
 - 2. Written reprimand.
 - 3. Suspension for three (3) or more working days.
 - 4. Termination of employment.

XV. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. Compliance with other laws not excused.

- a. Compliance with any other law, statute, resolution, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.
- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, executive order, as applicable, regulating and promoting safety and health unless such law, statute, resolution, or executive order, as applicable, is specifically repealed.

/s Hershel Beeler 3-8-06
Signature: Director, Occupational Safety and Health Date

ORGANIZATIONAL CHART

APPENDIX I

[For this section make a list of each work location wherein town employees work, such as Town Hall, Water Plant, Police Department, Town Garage, etc.), the address for the workplace, phone number at that workplace, and number of employees who work there.]

Example:

Police Department - 9 employees
 413 First Avenue
 New Tazewell, TN 37824

City Hall - 9 employees
 413 First Avenue
 New Tazewell, TN 37824

Street Department - 1 employee
 413 First Avenue
 New Tazewell, TN 37824

Airport-New Tazewell Municipal - 1 employee
 380 Airport Lane
 Tazewell, TN 37879

TOTAL NUMBER OF EMPLOYEES: 20

[Once each work location has been listed, record the total number of employees that the town employs.]

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

APPENDIX II

NOTICE TO ALL EMPLOYEES OF THE TOWN OF NEW TAZEWELL

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or mayor or TOSHA.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the mayor for assistance in obtaining relief or to file a complaint with the commissioner of labor and workforce development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the employees of the Town of New Tazewell is available for inspection by any employee at the mayor's office during regular office hours.

<u>/s/ Hershel Beeler</u>	<u>3-8-06</u>
Signature: Official	Date

OCCUPATIONAL SAFETY AND HEALTH PLAN
PROGRAM BUDGET

APPENDIX III

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the program.
11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM FUNDING:

Estimate of Total Budget for:

First year

Second year

Third year

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that New Tazewell has sufficient financial resources available or will make sufficient resources available as may be required in order to administer and staff its Occupational Safety and Health Program and to comply with standards.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
ACCIDENT REPORTING PROCEDURES

APPENDIX IV

Note: All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported by phone to the commissioner of labor and workforce development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system:

1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
4. Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
5. Retain these records for at least 5 years.
6. Complete the Survey of Occupational Injuries/Illness and mail it to Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the chief executive officer but excluding the governing body (county court, town council, board of directors, etc.).

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after their occurrence. The supervisor will provide the director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the director or compliance inspector, if necessary) and will complete a written report on the accident or illness and forward it to the director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a

brief description of how the accident occurred. The supervisor or the administrative head is to be notified of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers Compensation Form C20 or OSHA No. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address, and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 6 listed under PROGRAM PLAN in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation.

ORDINANCE NO. 303**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF NEW TAZEWell TENNESSEE.**

WHEREAS some of the ordinances of the Town of New Tazewell are obsolete, and

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

WHEREAS the Board of Mayor and Aldermen of the Town of New Tazewell, 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 "New Tazewell Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF NEW TAZEWell, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town 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 "New Tazewell Municipal Code," hereinafter referred to as the "municipal code."

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

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

Each day any violation of the municipal code continues shall constitute a separate civil offense.

¹State law reference

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

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

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

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

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, 1 - 8, 2013.

Passed 2nd reading, 3 - 12, 2013.

Jerry H. Beeler
Jerry Beeler, Mayor

Attest: Hershel Beeler

Hershel Beeler
Hershel Beeler, City Recorder

Approved as to form: James D. Estep, Jr.
James D. Estep, Jr. City Attorney