THE

JONESBOROUGH

MUNICIPAL

CODE

Prepared by the

MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE

in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

February, 1991

Change 13
March 8, 2021

TOWN OF JONESBOROUGH, TENNESSEE

MAYOR

Chuck Vest

ALDERMEN

Stephen Callahan
Virginia Causey
Terry A. Countermine
Adam Dickson

RECORDER

Abbey Miller

ADMINISTRATOR

Glen Rosenoff

TOWN ATTORNEY

James Wheeler

Preface

This code is the result of a comprehensive codification and revision of the ordinances of the Town of Jonesborough, Tennessee. By referring to the historical citation appearing at the end of each section, the user will be able to ascertain the ordinance from which the particular section has been derived. The absence of a historical citation means that the section was added when the code was prepared. If the citation reads "Code of 1982," then that provision of the code was derived from the corresponding section of the 1982 Code. The word "modified" in the historical citation indicates substantial modification of the original ordinance.

The attention of the user is directed to the arrangement of the code 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 number is the title number followed by a hyphen, then the chapter number, with the last two numbers showing the section number within the chapter, so that, for example, title 10, chapter 2, section 6, is designated as section 10-206.

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 readily find all 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 in the code. Therefore, the user should refer to the city's ordinance book for a comprehensive and up to date review.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide up-dating 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 8 of the adopting ordinance for the code).

(2) That one copy of every ordinance adopted by the town is furnished to MTAS immediately after its adoption (see section 8 of the adopting ordinance).

(3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

When the foregoing conditions are met, MTAS will produce 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 that again the code will be complete and up to date. If this very simple procedure is followed, the code will be kept up to date in a way that will serve fully the needs of the town's officials and citizens. If any questions or problems arise concerning the up-dating procedure, an MTAS ordinance codification consultant is available to the town for advice and assistance.

The able assistance of Ms. Kay Stout, Ms. Tracy Gardner, and Ms. Claudia Wolfenbarger of the MTAS Codes Unit is acknowledged in producing the 1991 Code of Jonesborough. An acknowledgement of Mrs. Karen Lowe and Mr. Dennis Huffer is also appropriate for their diligence produced the Code of 1982.

Andre Coure
Municipal Codification Specialist

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TITLE 1

ADMINISTRATION, OFFICERS, AND PERSONNEL[1]

CHAPTER
1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
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21. AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE AND ADVISORY COMMITTEE.
22. QUALIFYING COMMITTEES.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN[2]

SECTION
1-101. Time and place of regular meetings.

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[1]For other provisions relating to administration, officers, and personnel, see the charter and/or the appropriate related title in this code.

[2]For charter provisions dealing with qualifications and duties of aldermen, vacancies in office of aldermen, quorum requirements, malfeasance in office, etc., see § 4. For election provisions in the charter, see §§ 2 and 14.

1-102. Order of business.
1-103. General rules of order.
1-104. Rules of decorum for meetings.

1-101. Time and place of regular meetings. The Board of Mayor and Aldermen shall hold regular monthly meetings at 7:00 p.m. on the second Monday of each month at the town hall. [Code of 1982, as modified]

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

(1) Call to order by the mayor.
(2) Roll call by the recorder.
(3) Reading of minutes of the previous meeting by the recorder and approval or correction.
(4) Grievances from citizens.
(5) Communications from the mayor.
(6) Reports from committees, members of the Board of Mayor and Aldermen, and other officers.
(7) Old business.
(8) New business.
(9) Adjournment.

[Code of 1982]

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, 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. [Code of 1982]

1-104. Rules of decorum for meetings. Meetings of the board of mayor and aldermen shall be conducted in an orderly manner to ensure that the public has a full opportunity to be heard and that the deliberative process of the board is retained at all times. The presiding officer of the board, who shall be the mayor, or, in the mayor's absence, another member of the board of aldermen so designated by the board, shall be responsible for maintaining the order and decorum of meetings.

(1) Rules of decorum. While any meeting of the board of mayor and aldermen is in session, the following rules of order and decorum shall be observed:

(a) Board members. The members of the board of mayor and aldermen shall preserve order and decorum, and a member shall not by

conversation or other means delay or interrupt the board proceedings or disturb any other member while speaking.

(b) Town staff members. Employees of the town shall observe the same rules of order and decorum as those which apply to the members of the board.

(c) Persons addressing the board. Public oral communications at the board of mayor and aldermen meetings should not be a substitute for any item that can be handled during the normal working hours of the municipal government. The primary purpose of oral communications is to allow citizens the opportunity to formally communicate matters that cannot be handled during the regular working hours of the city government to the board of mayor and aldermen as a body. Each person who addressed the board shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the board staff, or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any board meeting shall, at the discretion of the presiding officer or a majority of the board, be barred from further audience before the board during that meeting.

(d) Members of the audience. No person in the audience at a board meeting shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping feet or other acts which disturb, disrupt or otherwise impede the orderly conduct of any board meeting. Any person who conducts himself in the afore-mentioned manner shall, at the discretion of the presiding officer or a majority of the board, be barred from further audience before the board during that meeting.

(2) Addressing the board. A person wishing to address the board regarding an item which is on the board meeting agenda shall submit a request on the form provided, or he may seek recognition by the presiding officer of the board during discussion of any such item. Persons wishing to discuss a non-agenda item may seek recognition by the presiding officer during the "citizens communications" or "grievances from citizens" portion of the meeting. No person shall address the board without first being recognized by the presiding officer. The following procedures shall be observed by persons addressing the board:

(a) Each person shall step up to the podium provided for the use of the public and shall state his name and address; the organization, if any, which he represents; and, if during the "citizens communications" or "grievances from citizens" portion of the meeting, the subject he wishes to discuss.

(b) During the "citizens communications" or "grievances from citizens" portion, any subject which is not deemed relevant by the board shall be concluded.

(c) Each person shall confine his remarks to the board agenda item or approved "citizens communications" or "grievances from citizens" subject being discussed.

(d) Each person shall limit his remarks to five (5) minutes, unless further time is granted or reduced by the board.

(e) All remarks shall be addressed to the board as a whole and not to any single member thereof, unless in response to a question from said member.

(f) No question may be asked of a member of the board or of the town staff without permission of the presiding officer.

(2) Enforcement of decorum. The rules of decorum set forth above shall be enforced in the following manner.

(a) Warning. The presiding officer shall request that a person who is breaching the rules of decorum be orderly and silent. If, after receiving a warning from the presiding officer shall order him to leave the board meeting. If such person does not remove himself, the presiding officer may order any law enforcement officer who is on duty at said meeting as sergeant-at-arms of the board to remove that person from the board chambers.

(b) Removal. Any law enforcement officer who is serving as sergeant-at-arms of the board shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the board meeting. Upon the instruction of the presiding officer, it shall be the duty of the sergeant-at-arms to remove from the board meeting any person who is disturbing the proceedings of the board.

(c) Resisting removal. If shall be unlawful and punishable by civil penalty for any person to resist removal by the sergeant-at-arms.

(d) Motion to enforce. If the presiding officer of the board fails to enforce the rules set forth above, any member of the board may move to require him to do so, and an affirmative vote of a majority of the board shall require him to do so. If the presiding officer of the board fails to carry out the will of a majority of the board, the majority may designate another member of the board to act as presiding officer for the limited purpose of enforcing any rule of this section which it wishes to enforce.

(e) Adjournment. If a meeting of the board is disturbed or disrupted in such a manner as to make infeasible or improbable the restoration of order, the meeting may be adjourned or continued by the presiding officer or a majority of the board, and any remaining board business may be considered at the next meeting. [Code of 1982, as replaced by Ord. #97-23, Oct. 1997]

CHAPTER 2

MAYOR[1]

SECTION
1-201. Executes town's contracts.

1-201. Executes town's contracts. The mayor shall execute all contracts as authorized by the Board of Mayor and Aldermen. [Code of 1982]

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[1]For charter provisions dealing with the term, qualifications, duties, and removal from office of the mayor, see § 3.

CHAPTER 3

TOWN ADMINISTRATOR

SECTION
1-301. Office established.
1-302. Appointment, salary, and tenure of administrator.
1-303. Duties of administrator.

1-301. Office established. There is hereby established the office of town administrator, which shall be administered by a full time administrator. [Ord. of June 27, 1978, § 1, as replaced by Ord. #92-16, Oct. 1992]

1-302. Appointment, salary, and tenure of administrator. The Board of Mayor and Aldermen shall appoint and fix the salary of the administrator, who shall serve at the pleasure of the Board of Mayor and Aldermen; provided, however, that the Board of Mayor and Aldermen may make a contract with such person who may be appointed administrator on a month to month basis or for a period of not exceeding twelve (12) months. [Ord. of June 27, 1978, § 2, as replaced by Ord. #92-16, Oct. 1992]

1-303. Duties of administrator. The office of town administrator shall act under and be responsible to the Board of Mayor and Aldermen. The administrator shall perform the following duties:

(1) Give his full time to administering the business of the town under the Board of Mayor and Aldermen of the town, subject to any exceptions provided in his contract of employment.

(2) Make recommendations to the Board of Mayor and Aldermen for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the town.

(3) Keep the Board of Mayor and Aldermen fully advised as to the conditions and needs of the town.

(4) Report to the Board of Mayor and Aldermen the condition of all property real and personal, owned by the municipaliaty and recommend repairs or replacements as needed.

(5) Act as purchasing agent for the town overseeing the purchase of all materials, supplies, and equipment necessary for the proper conduct of the town's business, subject to funds being available for the expenditures, policies and procedures established by the Board of Mayor and Aldermen, and any related provision in the town charter.

(6) Supervise and coordinate all administrative activities of each department of the town under the policies established by the Board of Mayor and Aldermen.

(7) Recommend to the Board of Mayor and Aldermen and suggest the priority of major programs or projects involving public works or public improvements that should be undertaken by the municipality.

(8) Recommend to the Board of Mayor and Aldermen the employment or promotion of any employee of the town who is responsible to the Board of Mayor and Aldermen.

(9) Keep personnel files on all town employees in cooperation with the Town Recorder.

(10) Administer the town's employee discipline and termination policy carrying out all disciplinary procedures including suspension and dismissal under the terms and conditions established by the Board of Mayor and Aldermen in the Town's Personnel Policy.

(11) Prepare and submit the annual budget and capital program to the Board of Mayor and Aldermen.

(12) Keep the Board of Mayor and Aldermen fully advised as to the financial condition and future needs of the town and make such recommendations to the Board of Mayor and Aldermen concerning the affairs of the town as he deems desirable.

(13) Perform such other duties as may be required of him by resolution of the Board of Mayor and Aldermen. [Ord. of June 27, 1978, § 3, as replaced by Ord. #92-16, Oct. 1992 and amended by Ord. #96-04, July 1996]

CHAPTER 4

RECORDER[1]

SECTION
1-401. To be bonded.

1-401. To be bonded. The recorder shall be bonded in the sum of ten thousand dollars ($10,000.00) with surety acceptable to the Board of Mayor and Aldermen before assuming the duties of office. [Code of 1982]

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[1]For a charter provision dealing with the appointment, oath, and duties of the recorder, see § 7. For a provision allowing the mayor to act as the recorder during the recorder's absences, disability, or incompetency, see § 3 of the charter.

CHAPTER 5

RECREATION COMMISSION

SECTION
1-501. Establishment.
1-502. Composition, appointment and membership.
1-503. Organization, rules, staff.
1-504. Meetings.
1-505. Powers and duties.
1-506. Compensation.

1-501. Establishment. There is hereby established a recreation advisory committee for the Town of Jonesborough. [Ord. of Dec. 14, 1976, § 101, as replaced by Ord. #96-16, Oct. 1996]

1-502. Composition, appointment and membership. (1) The recreation advisory committee shall be composed of nine (9) voting members. Three (3) of the voting members shall be the following:

(a) The mayor or his/her designee.

(b) The Washington County Mayor or his/her designee.

(c) One (1) alderman from the Jonesborough Board of Aldermen.

Six (6) members shall be appointed members and shall be selected by the mayor and confirmed by the board of mayor and aldermen. The director of parks and recreation shall be an ex-officio member of the advisory committee.

(2) Affiliate membership. A non-voting affiliate membership on the advisory committee is hereby established, and the president of the Jonesborough Little League Associate or his/her designee, and the president of the Persimmon Ridge Soccer Association or his/her designee is officially designated as an affiliate member to the recreation advisory committee. Affiliate members will receive monthly information sent to regular committee members, and will be encouraged to attend and participate in discussions at all meetings of the committee, however, they will not vote, and not be considered in the make-up of a quorum.

(3) Affiliate membership emeritus. Also hereby established is an affiliate membership emeritus status on the recreation advisory committee. The affiliate membership emeritus is a non-voting status on the recreation advisory committee that can be bestowed on a long-time member of the committee that for health or other reasons can no longer attend meetings on a regular basis. The affiliate member emeritus designation allows the longtime member to continue being associated with recreation advisory committee in a non-voting status, still receiving information provided to regular members for monthly meetings, and being encouraged to participate in meetings whenever possible.

[Ord. of Dec. 11, 1979, § 102, as replaced by Ord. #92-14, Sept. 1992; Ord. #93-05, June 1993; Ord. #96-16, Oct. 1996; Ord. #2000-04, Feb. 2000, and Ord. #2014-10, Sept. 2014]

1-503. Organization, rules, staff. The advisory committee shall elect from its appointed members a chairman and vice-chairman. The terms shall be for one (1) year with eligibility for re-election. The director of parks and recreation shall perform the duties of secretary and shall be present at all advisory committee meetings and sub-committee meetings. The chairman shall appont all necessary sub-committees from the Advisory Committee. [Ord. of Dec. 11, 1979, § 103, as replaced by Ord. #96-16, Oct. 1996]

1-504. Meetings. The recreation advisory committee shall establish a meeting schedule for each calendar year and properly advertise said schedule as required. The time and place of regular meetings shall be determined by a majority vote of the advisory committee members. Called meetings of the advisory committee shall be determined by the chairman or majority of the entire membership. [Ord. of Dec. 11, 1979, § 104, as replaced by Ord. #96-16, Oct. 1996, and amended by Ord. #2008-05, June 2008]

1-505. Powers and duties. The advisory committee shall act in advisory capacity only and shall have no authority to bind the board of mayor and aldermen, mayor or corporation or Town of Jonesborough in any way except as the board of mayor and aldermen may from time to time direct. The advisory committee shall have no authority to obtain the expenditures of any of the town's funds without the expressed authority of the board of mayor and aldermen. The board of mayor and aldermen may, however, in its discretion appropriate funds to the advisory committee for carrying out its required duties and activities.

It shall be the goal of the recreation advisory committee to act as a catalyst to provide Jonesborough area residents with a well-rounded recreational program that serves the needs of all age and ethnic groups regardless of sex and physical prowess. The advisory committee shall have the following responsibilities:

(1) Coordinate with the board of mayor and aldermen all activities related to athletics, municipal parks and other recreational facilities within the town.

(2) The advisory committee shall periodically evaluate the progress and development of the various programs within the town, the level of maintenance of all recreation areas and the effectiveness of the programs. The advisory committee shall be currently informed concerning the public need for expanded recreational facilities and for the need for various types of recreational programs.

(3) Act as coordinator between the town and various civic organizations in relation to recreational projects, programs and athletic events.

(4) Advise the board of mayor and aldermen of the need for various types of rules and regulations concerning the use of town parks and recreational facilities. The advisory committee shall further advise the board of the usage of the town parks and facilities to the best interests of the public and town.

(5) The advisory committee shall work with the town administrator and the parks and recreation director to develop and review a budget for the park and recreation department each fiscal year.

(6) Perform such other duties as the board of mayor and aldermen may from time to time require. [Ord. of Dec. 11, 1979, § 105, as replaced by Ord. #96-16, Oct. 1996]

1-506. Compensation. The members of the recreation advisory committee shall serve without compensation. [Ord. of Dec. 11, 1979, § 106, as replaced by Ord. #96-16, Oct. 1996]

CHAPTER 6[1]

CODE OF ETHICS

SECTION
1-601. Applicability.
1-602. Definitions.
1-603. Disclosure of personal interest by official with vote.
1-604. Disclosure of personal interest in non-voting matters.
1-605. Acceptance of gratuities, etc.
1-606. Use of information.
1-607. Use of town time, facilities, etc.
1-608. Use of position or authority.
1-609. Outside employment.
1-610. Ethics complaints.
1-611. Violations.

1-601. Applicability. This chapter is the code of ethics for personnel of the Town of Jonesborough. 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 "town," "municipal" and "municipality" include these separate entities. (as added by Ord. #2007-06, May 2007)

1-602. Definitions. The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) The word "complaint" means a written, signed document setting forth the reason(s) for belief of an ethics violation. A complaint must contain the original signature of the complaining party and such person's contact information including but not limited to full name, address, and telephone number. Comments sent by email, facsimile or other electronic means are not original documents and will not constitute a valid complaint.

(2) The words "personal interest" mean:

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

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

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[1]Chapter 6 "History Museum Advisory Committee" was deleted by Ord. #2001-03, June 2001.

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s) (including natural, step or adoptive, as well as in-laws), grandparent(s), siblings(s) (including natural, step or adoptive), child(ren) (including natural, step or adoptive, as well as grandchildren and in-laws), and any other individual residing within the employee's household who is a legal dependent of the employee or official for income tax purposes.

(3) 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.

(4) The word "gift" means the transfer of anything of economic value, regardless of form, without reasonable consideration. "Gift" may include a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred. "Gift" does not include political campaign contributions which are solicited or accepted in accordance with applicable laws and regulations.

(5) The word "official" means the members of board of mayor and aldermen, as well as members appointed thereby to town boards, commissions, committees, authorities, corporations or instrumentalities established by law or by the code. "Official" also includes the town judges.

(6) The word "censure" means an expression of severe criticism or reproach.

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. (as added by Ord. #2007-06, May 2007)

1-603. 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 himself/herself from voting on the measure. (as added by Ord. #2007-06, May 2007)

1-604. Disclosure of personal interest 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. Copies of such forms filed with the recorder shall be provided to the town administrator and, in the case of an employee, filed in the employee's personnel file. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or

policy, recuse himself/herself from the exercise of discretion in the matter. (as added by Ord. #2007-06, May 2007)

1-605. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration in favor of any kind from anyone other than the town:

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

(2) That might reasonably be interpreted as an attempt to influence his/her action, or reward him/her for past action, in executing town business. (as added by Ord. #2007-06, May 2007)

1-606. 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/her official capacity or position of employment with the intent to result in financial gain for himself/herself or any other person or entity. (as added by Ord. #2007-06, May 2007)

1-607. Use of town time, facilities, etc. (1) An official or employee may not use or authorize the use of town time, facilities, equipment or supplies for private gain or advantage to himself/herself.

(2) An official or employee may not use or authorize the use of town 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, or as otherwise provided by law. (as added by Ord. #2007-06, May 2007)

1-608. 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; provided, however, that this section shall not apply to reasonable amounts paid for:

(a) Food, transportation, lodging and other travel expenses incurred in accordance with the town's travel policy.

(b) Dues, registrations, meals and similar expenses incurred in conjunction with membership or participation in a professional or community organization to which the official or employee belongs in his or her official capacity.

(c) Meals purchased in the course of an official business meeting conducted on the town's behalf.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself/herself or others that is not

authorized by the Charter, general law, or ordinance or policy of the town. No officer shall intimidate, threaten, coerce, discriminate against, or give the appearance of or attempt to intimidate, threaten, coerce or discriminate against any employee for the purpose of interfering with that person's freedom of choice in the regular discharge of his or her official duties.

(3) No official or employee shall provide. commercial or advertising endorsements in such a manner as to convey the town's approval of any private for-profit enterprise; provided, however, that an official or employee may respond to inquiries seeking information as to the town's experience with a vendor or other private enterprise. (as added by Ord. #2007-06, May 2007)

1-609. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the town's charter or any ordinance or policy. This section does not negate any personnel policy requirement for employees to obtain prior approval before beginning any outside employment. (as added by Ord. #2007-06, May 2007)

1-610. Ethics complaints. (1) The town attorney is designated as the ethics officer for the municipality. 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 interest in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the board of mayor and aldermen, the town administrator or the town attorney shall either determine that a 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, in the event the complaint is against the town attorney or he has a conflict of interest, 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. (as added by Ord. #2007-06, May 2007)

1-611. 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 town'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. (as added by Ord. #2007-06, May 2007)

CHAPTER 7

SENIOR CITIZENS ADVISORY COMMITTEE

SECTION
1-701. Committee established.
1-702. Purpose and duties.
1-703. Composition.
1-704. Reorganization of existing members.
1-705. Terms.
1-706. Compensation.
1-707. Organization and rules.
1-708. Meetings.
1-709. Fundraising.

1-701. Committee established. A senior center advisory committee is hereby re-established for the Town of Jonesborough. [Ord. of Dec. 13, 1977; ord. of Feb. 12, 1980, as replaced by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-702. Purpose and duties. The role of the senior center advisory committee is to provide community input into the operation and activities of the Jonesborough Senior Center, and to help ensure that to the extent possible the center program is enhancing the quality of life of the seniors from Jonesborough and portions of Washington County. More specifically, the advisory board shall:

(1) Advise and make recommendations to staff regarding center policies, and make recommendations to the board of mayor and aldermen.

(2) Assist staff in planning and implementing activities at or through the Center.

(3) Purpose new services and activities to be undertaken by the Center.

(4) Assist staff in evaluating the effectiveness of activities undertaken at or through the center.

(5) Develop fundraising strategies that help meet the financial needs of the Center, and assist with their implementation.

(6) Review annual budgets proposed to the board of mayor and aldermen, and make recommendations to the town board, if appropriate.

(7) Look for ways to increase membership and participation in center activities.

(8) Communicate the activities and the needs of the senior center to the general public.

(9) Serve as a conduit to the area seniors helping communicate and address concerns, and increasing understanding and cooperation of town staff, elected officials and center participants. [Ord. of July 11, 1978; ord. of Feb. 12, 1980, as replaced by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-703. Composition. The senior center advisory committee shall consist of nine (9) members which shall be selected by the mayor and confirmed by the board of mayor and aldermen. The composition of the advisory committee shall reflect the following requirements:

(1) One (1) member shall be a member of the board of mayor and aldermen, or be a designee of the town board.

(2) One (1) member shall be a member of the Washington County Commission, or be a designee of the county commission.

(3) Two (2) members shall be eligible for participation in the Jonesborough Senior Center program.

(4) At least five (5) members need to live, own property or own or operate a business within the town limits of Jonesborough.

(5) The senior center director shall serve in an ex-officio member of the advisory committee.

Selections by the mayor should also take into account to the extent possible, minority representation, representation from the area of Washington County served by the center, possible social service agency participation, and possible representation from any major donor to the senior center program. [Ord. of Feb. 12, 1980, § 2, modified, as replaced by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-704. Re-organization of existing members. Because of the reorganization of the senior center advisory committee, terms of all current members of the existing senior center advisory board will immediately expire upon second and final reading of this ordinance. Existing members may either be reselected or replaced by the mayor with the approval of the board of mayor and aldermen in order to meet the new advisory committee requirements established in this chapter. [Ord. of Feb. 12 1980, § 3, as amended by Ord. #2000-18, Dec. 2000, and replaced by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-705. Terms. Members of the senior center advisory committee shall serve three (3) year terms, however, for the initial appointment only of the re-established Advisory Board, three (3) members shall be appointed for three (3) years, two (2) members for two (2) years, and two (2) members for one (1) year, and the representatives from the town board and county commission shall serve terms coterminous with the terms of the elected office they represent. Members shall serve until they are reappointed or replaced. Members serve at the pleasure of the Jonesborough Board of Mayor and Aldermen, and may be replaced for any reason by majority vote of the town board. Vacancies shall be filled for the unexpired term by selection of the mayor and approval by the board of mayor and aldermen. [Ord. of Feb. 12, 1980, § 4, as replaced by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-706. Compensation. All members shall serve without compensation except for any compensation for designated committee participation that may be afforded to town board or county commission members through the governing bodies. [as added by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-707. Organization and rules. The advisory committee shall elect from its appointed members a chairman, and may select a vice-chairman and/or secretary. Officers shall serve one (1) year terms but shall serve until they are re-elected or replaced. The chairman shall appoint all necessary subcommittees, and the senior center director shall be notified of and may be present at all subcommittee meetings. The advisory committee shall adopt its own rules of procedure with meetings operating under Robert's Rules of Order. [as added by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-708. Meetings. The senior center advisory committee shall normally meet monthly, establish a meeting schedule for the calendar year and shall properly advertise said schedule as required. Meetings will normally be held at the Jonesborough Senior Center; however, meetings may be held at the location and time established by the chairman or advisory committee upon proper public notice. [as added by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

1-709. Fundraising. The advisory committee is authorized to raise funds and donations on behalf of the senior center. Revenue received must be accounted for through policies established by the board of mayor and aldermen or the town recorder. Funds expended must also be spent under policies established by the town board or town recorder and must be spent for the enhancement of facilities and/or programs of the senior center. The advisory committee may not obligate any budgeted center funding or initiate any contract without the prior consent of the board of mayor and aldermen. [as added by Ord. #2015-2, March 2015 ***Ch12_04-09-18***]

CHAPTER 8

TOURISM DEVELOPMENT ADVISORY COMMITTEE

SECTION

1-801. Composition, appointment, membership, and terms.
1-802. Compensation and vacancies.
1-803. Organization.
1-804. Rules and staff.
1-805. Meetings.
1-806. Duties and finances.

1-801. Composition, appointment, membership and terms. The tourism development advisory committee shall be made up of not more than twenty (20) members who have been interviewed by the director of tourism development and who have been recommended to the board of mayor and aldermen. The tourism development advisory committee shall be composed of a wide representation from Jonesborough's civic, cultural, business and professional community, and shall include the director of tourism, visitor center director and a representative from the board of mayor and aldermen. At the initial appointment, the board of mayor and aldermen shall divide the appointees into three (3) groups containing as near equal numbers as possible. The first group shall serve for four (4) years, the second group for three (3) years, and the third group for two (2) years, and thereafter the term of office for members shall be four (4) years. Members may not serve more than two (2) consecutive terms. [Ord. of Feb. 13, 1979, § 1, as replaced by Ord. #97-19, § 1, Oct. 1997]

1-802. Compensation and vacancies. The members of the tourism development advisory committee shall serve without compensation or remuneration in the event a vacancy occurs, said vacancy shall be filled from an appointment by the mayor, in consult with the tourism director, with the approval of the board of mayor and aldermen. [Ord. of Feb. 13, 1979, § 2, as replaced by Ord. #93-07, June 1993 and further replaced by Ord. #97-19, § 1, Oct. 1997]

1-803. Organization. The tourism development advisory committee shall elect from its appointed members a chairman, vice-chairman and secretary. The terms shall be for one (1) year with eligibility for re-election. The director of tourism development shall perform the duties of secretary and shall be present at all committee and sub-committee meetings. The chairman shall appoint all necessary sub-committees from the tourism development advisory committee. [Ord. of Feb. 13, 1979, § 3, as replaced by Ord. #93-07, June 1993; and further replaced by Ord. #97-19, § 1, Oct. 1997]

1-804. Rules and staff. The committee shall adopt rules and regulations for the orderly discharge of its duties subject to the approval of the board of mayor and aldermen. The director of tourism and development and the visitor center director shall serve as staff to the tourism development advisory committee. Other town employees shall serve as staff to the committee as deemed appropriate by the town administrator. [Ord. of Feb. 13, 1979 § 4, as replaced by Ord. #93-07, June 1993; and further replaced by Ord. #97-19, § 1, Oct. 1997]

1-805. Meetings. The tourism development advisory committee shall meet not less than six (6) times per year and at other such times as deemed necessary by the director of tourism by the committee chair. The time and place of such meetings shall be established by the members of the committee. [Ord. of Feb. 13, 1979, § 5 as replaced by Ord. #93-07, June 1993; and further replaced by Ord. #97-19, § 1, Oct. 1997]

1-806. Duties and finances. The tourism development advisory committee shall make suggestions and recommendations on funding, activities and other such matters to enhance, encourage and promote the continual development of tourism, both on the cultural, historic and economic levels. The tourism development advisory committee on behalf of the Town of Jonesborough may accept gifts, grants, money, or any personal and real property shall be used for and/or applied to/for the purpose of this chapter and shall be promptly reported to and any money received deposited with the town recorder. The acceptance of any gifts, grants, money, or any personal and real property given to the tourism development advisory committee shall be subject to the approval of the board of mayor and aldermen. [Ord. of Feb. 13, 1979, § 6, as replaced by Ord. #93-07, June 1993; and further replaced by Ord. #97-19, § 1, Oct. 1997]

CHAPTER 9

POLICE AND ARREST[1]

SECTION

1-901. Policemen subject to chief's orders.
1-902. Policemen to preserve law and order, etc.
1-903. Policemen to wear uniforms and be armed.
1-904. When policemen may make arrest.
1-905. Policemen may require assistance.
1-906. Deposition of persons arrested.
1-907. Police department records.
1-908. Police personnel enhancement program--establishment and organization.
1-909. Selection.
1-910. Training program.
1-911. Utilization and assignment.
1-912. Status and restrictions.
1-913. Evaluation and separations.
1-914. Canine program.

1-901. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. [Code of 1982, as replaced by Ord. #94-01, § 1, Jan. 1994, and further replaced by Ord. #96-08, Sept. 1996]

1-902. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court. [Code of 1982, as replaced by Ord. #94-01, § 2, Jan. 1994, and further replaced by Ord. #96-08, Sept. 1996]

1-903. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. [Code of 1982, as replaced by Ord. #94-01, § 3, Jan. 1994, and further replaced by Ord. #96-08, Sept. 1996]

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[1]For provisions relating to traffic citations, etc., see title 9, chapter 6, in this code.

1-904. When policemen may make arrest. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman 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. [Code of 1982, as replaced by Ord. #94-01, § 4, Jan. 1994, and further replaced by Ord. #96-08, Sept. 1996]

1-905. Policemen may require assistance. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such person's assistance is requested by the policeman and is reasonably necessary. [Code of 1982, as replaced by Ord. #94-01, § 5, Jan. 1994, and further replaced by Ord. #96-08, Sept. 1996]

1-906. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinances 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 recorder, or, if the town recorder is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the town judge. In addition, 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. [Code of 1982, as replaced by Ord. #94-01, § 6, Jan. 1994, and further replaced by Ord. #96-08, Sept. 1996]

1-907. 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 policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. [as added by Ord. #96-08, Sept. 1996]

1-908. Police personnel enhancement program--establishment and organization. (1) Police personnel enhancement program established. A Jonesborough Police Personnel Enhancement Program is hereby established under the following guidelines to provide assistance to the full-time officers carrying out their duties within the Town of Jonesborough.

(2) Background. The department's police personnel enhancement program encompasses the concept that law enforcement is the responsibility of every citizen and that opportunities should be provided to concerned individuals to serve the community.

In adopting the police personnel enhancement program, the department wishes to establish a two-part system of personnel to enhance the sworn officers currently employed.

Individuals appointed to assist full time personnel may apply as Patrolman I or Patrolman II. Those officers applying as Patrolman II must have completed the basic eight (8) week police recruit academy.

Individuals applying for Patrolman I are those individuals who have attended the basic police recruit school. These individuals shall ride with a full time sworn officer at all times and shall take no enforcement action unless directed to do so by a full time sworn officer.

(3) Police personnel enhancement program coordinator. The Captain or Lieutenant as designated by the chief of police functions as coordinator and is responsible for the following:

(a) Coordination: Control and coordinate duty assignments of Patrolman I and Patrolman II personnel.

(b) Records: Maintain evaluations and other pertinent records relative to each patrolman.

(c) Training: Coordinate training for each officer.

(d) Recruiting: Coordinate recruiting programs through Walter's State Community College and screening of applicants as needed. [as added by Ord. #96-07, July 1996]

1-909. Selection. (1) General. All candidates shall comply with eligibility requirements established for regular police officers in TCA 38-8-106 which is as follows:

(a) Be at least twenty-one (21) years of age.

(b) Be a citizen of the United States.

(c) Be a high school graduate or possess equivalency.

(d) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendre to any felony charge or to any violation of any federal or state laws or town ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances.

(e) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States.

(f) Have passed a physical examination by a licensed physician, including drug screen.

(g) Have a good moral character as determined by a thorough investigation conducted by the employing agency.

(h) Be free of all apparent mental disorders as described in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III) of the American Psychiatric Association. Applicants must be certified as meeting these criteria by a qualified professional in the psychiatric or psychological fields.

(i) Upon selection, the participant shall begin a probationary status for a minimum of twelve (12) months.

(2) Eligibility. (a) Departmental employees: Nonsworn employees of the department may participate in the police personnel enhancement program provided the request receives concurrence through the chief of police.

(b) Age: Candidates must be at least twenty-one (21) years of age at the time the application is submitted and in accordance with TCA 38-8-106.

(c) Ineligibility for program: To preclude a conflict of interest, persons within the following categories are ineligible to participate in the program:

(i) Persons currently employed as a guard, private detective, security patrolman, or in a similar occupation.

(ii) Members of other police agencies.

(iii) Non departmental members of the criminal justice system, e.g., correctional personnel prosecutors, and public defenders.

(iv) Judges, clerks, attorneys in private practice, persons prohibited by law from being police officers, and other persons, who at the discretion of the chief of police, would face an immediate or potential conflict of interest due to the nature of the person's full time employment.

(d) Separating law enforcement officers: Personnel who are law enforcement officers pursuant to TCA 38-8-106 and who are separating from the department under favorable conditions may concurrently apply for appointment in the police personnel enhancement program upon separation provided that eligibility requirements enumerated in (1) and (2) above are met.

(3) Selection process: This process shall be coordinated through the chief of police and the program coordinator. The selection procedure shall follow the same process as that of a full time officer but does not require the approval of the board of mayor and aldermen. However, the town administrator is given the final authority to approve or reject an officer for participation in this program. [as added by Ord. #96-07, July 1996]

1-910. Training program. (1) General. State minimum standards which are established by the Peace Officers Standards and Training Commission (POST) must be attained by Patrolman II candidates prior to submitting an application. Candidates applying for Patrolman I are not required to possess any prior training.

(2) Police academy training. As stated earlier, Patrolman II candidates must have the basic police recruit academy prior to submitting an application. Patrolman I candidates shall receive departmental training upon their appointment.

(a) Training program: Patrolman I. (i) Patrolman I candidates will train for a period of not less than six (6) months.

(ii) Training will be coordinated by the chief of police.

(iii) Instruction will include at a minimum: firearms qualification, patrol techniques and procedures, radio procedures, arrest procedures, report writing, court testimony, legal aspects of law enforcement, and policies and procedures.

(iv) Attendance:

(A) Trainees shall attend all classes.

(B) If circumstances cause a student to be absent, the class instructor must be notified prior to the start of class.

(C) Instructional hours missed may be made up when approved and scheduled by class instructor.

(D) A trainee who misses ten (10) percent of departmentally prescribed training shall be dismissed.

(v) Individual training records are maintained by the program coordinator.

(b) Training program: Patrolman II. (i) Patrolman II candidates shall train with a full time sworn officer for a period of two (2) months.

(ii) The program coordinator will coordinate training with full time officers designated to train and evaluate Patrolman II candidates.

(iii) Instruction will consist of familiarization with the departments general operating procedures, personnel manual, geographic area, and firearms qualification.

(iv) Individual training records are maintained by the chief of police.

(v) Registration with POST will be accomplished in accordance with TCA 38-8-106 and will remain on file with the chief of police.

(3) Field training and evaluation program. The field training officer under the direct supervision of the chief of police or program coordinator shall administer the field training and evaluation program. The program provides

candidates an opportunity to apply training under the supervision of field training officers.

(a) Patrolman I. (i) Concept: The candidate will begin a forty-hour in-service before entering the Field Training Officer Program. Upon completion of the in-service, the candidate will begin the Field Training Officer Program.

(ii) Phases: The Field Training Officer Program is comprised of two phases consisting of sixteen (16) eight-hour riding assignments. Phase one of the program consists of riding with a full time officer as an observer only. Phase two of the program consists of riding with a full time officer and applying practical skills in the presence of the full time officer.

(iii) Evaluations: The candidate shall receive a daily evaluation while participating in the Field Training Officer Program. The candidate will then receive a monthly evaluation while on probationary status followed by semi-annual evaluations.

(iv) Documentation: Upon successful completion of the Field Training Officer Program and probationary period, all evaluations are forwarded through respective command channels to the chief of police. The chief of police shall review the complete file and, upon confirming successful completion of the Field Training Officer Program, a congratulatory letter from the chief of police is forwarded to the candidate and a copy of such shall remain on file with the department.

(b) Patrolman II: (i) Concept: Upon completion of the basic police recruit school, the candidate will begin the Field Training Officer Program.

(ii) Phasing: The Field Training Officer Program is comprised of two (2) phases consisting of eight (8) eight-hour riding assignments. Phase one of the program consists of riding with a full time officer and observation. Phase two consists of a full time officer riding with the candidate.

(iii) Evaluations: The candidate shall receive a daily evaluation while participating in the Field Training Officer Program. The candidate will then receive a monthly evaluation while on probationary status followed by semi-annual evaluations.

(iv) Documentation: Upon successful completion of the Field Training Officer Program, all evaluations are forwarded through respective command channels to the chief of police. The chief of police shall review the complete file and upon confirming successful completion of the Field Training Officer Program, a congratulatory letter from the chief of police is forwarded to the candidate and a copy of such shall remain on file within the department.

(4) In-service training. Periodic in-service training is developed and implemented relative to the candidates assignment. Patrolman I candidates shall attend scheduled in-service training as deemed necessary by the chief of police. Patrolman II candidates shall attend a POST approved forty-hour in-service annually. This training will consist of a minimum of forty-hours annually.

(a) Required attendance: Candidates will attend all mandatory in-service training as required by the chief of police as part of scheduled duty.

(i) The individual candidate is scheduled for in-service training by the chief of police.

(ii) In the event a participant misses scheduled training due to an excused absence, training assistance may be obtained from the chief of police or departmental instructors.

(b) Unexcused absences: The chief of police shall obtain attendance reports and render appropriate counseling or disciplinary action to the candidate with unexcused absences. Unexcused absences shall be reported through the chain of command to the chief of police.

(c) State supplement: Patrolman I and Patrolman II Police Personnel Enhancement Program participants are not eligible to receive the annual state in-service supplement pay. [as added by Ord. #96-07, July 1994]

1-911. Utilization and assignment. (1) General. The goal of the police personnel enhancement program is to provide an additional cadre of trained uniformed personnel employing full police powers to Patrolman II candidates to further the efforts of the Jonesborough Police Department. When on duty, the participants are subject to the same policies, rules, and procedures pertaining to full time sworn police personnel, except as limited by this chapter.

(2) Duty assignments and responsibilities. (a) Assignment: Upon successful completion of probation, Patrolman II candidates shall schedule tours of duty prior to monthly schedules being posted. Candidates will remain under the general supervision of the chief of police and immediate supervision of the departmental chain of command. In the event a supervisor is not available, police personnel enhancement program participants shall be supervised by full time sworn officers. In no event shall a participant, (Patrolman I or II), be scheduled to work alone on a shift.

(i) The total number of participants shall be determined by the chief of police with such factors to consider as personnel needs, budgetary constraints, etc.

(b) Police personnel enhancement program participant responsibilities: The on duty Patrolman II participant functions as a regular police officer but remains under the supervision of a regular

police officer at all times. The on duty Patrolman I participant functions as an assistant to full time sworn personnel and shall accompany a full time officer at all times. Patrolman I participants shall not be authorized to drive departmental vehicles. Additional responsibilities are as follows:

(i) Patrolman I participants shall work a minimum of 16 hours per month. Patrolman II participants shall work a minimum of 32 hours per month. Failure to meet this obligation for three consecutive months is considered abandonment of position. The chief of police may issue a letter of termination from the program.

(ii) Coordinate duty hours and days with the chief of police.

(iii) Advise the chief when a situation dictates absence from a scheduled tour of duty.

(iv) Maintain the uniform and all issued equipment as required by departmental policies.

(v) Perform all duties in such a manner as to enhance the department's image in the community.

(vi) Follow court attendance procedures in accordance with personnel policies.

(vii) Appearance must be as described in existing departmental procedures.

(c) Supervisory responsibilities: Supervisors must ensure that personnel under their command are aware of the benefits of the police personnel enhancement program and provide for:

(i) Adequate supervision to facilitate evaluation.

(ii) Disciplinary action when necessary.

(iii) Issuance of appropriate departmental publications.

(iv) Completion of monthly work commitment.

(v) Return of town issued equipment upon separation of the participant.

(d) Program administrator: The captain or lieutenant as designated by the chief of police functions as coordinator and is responsible for the following:

(i) Maintain direct liaison with participants and the chief.

(ii) Assist in preparation of work schedule.

(iii) Apprise the chief of police as to individual participant's duty performance.

(iv) Forward a copy of performance evaluations and other pertinent information to the chief on a monthly basis. [as added by Ord. #96-07, July 1994]

1-912. Status and restrictions. (1) General: Patrolman II participants are authorized to function as regular police officers only during specific tours of duty. All laws, ordinances, policies, rules, and procedures, including bond and liability protection applicable to regular police officers are applicable to police personnel enhancement program participants while they are on duty. When off duty, the police personnel enhancement program participant may act only in the capacity of a private citizen; does not revert to on duty status if involved in activity which might be police related; and is not entitled to worker's compensation or any other city or departmental benefits. The same applies to Patrolman I participants, however, Patrolman I participants are granted limited enforcement authority and only in the presence of a full time sworn officer.

(2) Leave of absence: Police Personnel Enhancement Program participants may be granted a leave of absence, not to exceed one (1) year.

(a) Request: Justification and request for leave of absence will be submitted in writing to the chief of police through the chain of command for review and approval.

(b) Town property: All town owned property shall be returned prior to the leave of absence.

(3) Credentials, uniform, and authorized firearm:

(a) Firearms: Police personnel enhancement program participants will be provided firearms by the Jonesborough Police Department. Participants shall carry this firearm during their scheduled tour of duty.

(b) Off duty firearm: A Patrolman II participant may be authorized to carry their duty weapon while off duty at the discretion of the chief. Patrolman I participants in an off duty status shall not carry their duty weapon; however, in times of emergencies where personal protection is needed, the Patrolman I participant may carry his firearm off-duty if authorized by the chief of police.

(c) Off duty credentials: The authorized badge and commission card may be carried while off duty. Off duty Patrolman II participants carrying their duty weapons must have their departmental badge and credentials with them at all times.

(d) Uniform: Police personnel enhancement program participants shall wear the same uniform designated by the chief of police.

(4) Compensation: Compensation may be paid during special events such as, Historic Jonesborough Days, Storytelling Festival, etc. Rate of pay will be set by the board of mayor and aldermen and shall not be less than the current minimum wage standard.

(5) Insurance coverage: When on duty, police personnel enhancement program participants are entitled to death and injury benefits afforded full time officers.

(6) Lateral entry: The department does not offer any lateral transfer of police personnel enhancement program participants into full time positions. police personnel enhancement program participants may apply for full time positions; however, they are subject to the same hiring procedures as all other applicants. Police personnel enhancement program participation does not guarantee the participant a full time position and should not be construed as such. [as added by Ord. #96-07, July 1994]

1-913. Evaluation and separations. (1) General. The police personnel enhancement program participant functions as a police officer while on duty and will be held accountable for acts of misconduct.

(2) Evaluation. Upon completion of the field training officer program and probation, police personnel enhancement program participants shall be evaluated the same as full time officers. Police personnel enhancement program participants who demonstrate performance deficiencies may be evaluated on a monthly basis.

(3) Separations. (a) Termination: Terminations are final upon approval of the chief of police, and shall not be subject to further appeal. Reserve/auxiliary officers are not subject to the same termination procedures as those of sworn full time personnel. The process of termination shall be as follows:

(i) The program coordinator or chief of police shall issue a letter notifying the personnel enhancement program participant of his termination. The letter of termination shall also include instruction for the return of town owned equipment.

(ii) If the personnel enhancement program participant chooses to appeal his termination, he shall have three (3) working days after he receives his letter of termination to provide a written response to the letter of termination. After reviewing the response, the chief of police then may approve or reject the participant's termination.

(b) Resignation: When a participant resigns, the program coordinator shall prepare a memorandum to the chief of police. This program coordinator will attach to this memorandum any written notification of resignation received from the participant. The program coordinator shall ensure the return of town owned property upon the participant's resignation.

(4) Personnel files. Personnel files shall remain on file in the town recorder's office for an indefinite period upon termination of a participant. [as added by Ord. #96-07, July 1994]

1-914. Canine Program. (1) Program established. - There is hereby established the Jonesborough Police Department Canine Program authorizing

under certain circumstances the use of a canine for police duties under the authority and direction of the chief of police.

(2) Authorized use. - The use of the canine will be authorized in the following situations:

(a) Maintaining an effective deployment program.

(b) Conducting building intrusion searches.

(c) Conducting searches for lost children or missing adults.

(d) Conducting suspect and/or evidence searches.

(e) Conducting preventative burglary and street robbery patrols.

(f) Providing for timely response to crimes in progress and officer assistance calls.

(g) Rendering assistance to foreign jurisdictions on approval of a commanding officer or the canine service detail supervisor or commander.

(h) Search disaster scenes for victims.

(i) Protecting police officers and citizens from acts of violence. [as added by Ord. #96-07, July 1994]

CHAPTER 10

TOWN COURT

SECTION

1-1001. Municipal judge.
1-1002. Maintenance of docket.
1-1003. Issuance of arrest warrants.
1-1004. Issuance of summonses.
1-1005. Issuance of subpoenas.
1-1006. Trial and disposition of cases.
1-1007. Appearance bonds authorized.
1-1008. Imposition of fines, penalties, and costs.
1-1009. Appeals.
1-1010. Bond amounts, conditions, and forms.
1-1011. Disposition and report of fines, penalties, and costs.
1-1012. Disturbance of proceedings.
1-1013. Litigation tax levied.

1-1001. Municipal judge. (1) Position of municipal judge established. The position of municipal or city judge is hereby established under the authority of Private Chapter No. 35, House Bill No. 1589 of the State of Tennessee Private Acts of 1993.

(2) Municipal jurisdiction. The municipal judge shall be vested with the judicial power and judicial functions as established for the judge or recorder in the town charter and shall be subject to the provisions of law governing the municipal court. The 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 not to exceed fifty dollars ($50.00) per offense or such other maximum civil penalty that may allowed under state law and approved by ordinance by the board of mayor and aldermen, and any court costs that may be prescribed by the board of mayor and aldermen by ordinance.

(3) The municipal judge shall be at least thirty (30) years old.

(4) The municipal judge shall be a resident of the Washington County for at least one (1) year and a resident of the State of Tennessee for at least five (5) years immediately preceding his or her appointment.

(5) The municipal judge shall have a law degree, a Doctor of Jurisprudence (JD) or equivalent degree and be licensed to practice law in the State of Tennessee.

(6) The oath of office for municipal judge shall be the same oath prescribed for the members of the board of mayor and aldermen.

(7) The term of the municipal judge shall be eight (8) years and shall end on June 30 during or at the end of the eighth year.

(8) Nominations to fill the office of municipal judge shall be made by the mayor with the approval of the majority of the board of mayor and aldermen.

(9) An incumbent municipal judge may be re-nominated by the mayor and re-appointed by the approval of the majority of the board of mayor and aldermen.

(10) There shall be no limitation as to the number of service terms that any municipal judge may serve.

(11) Any vacancy in the office which occurs by resignation, death, incompetency or removal for cause by the board of mayor and aldermen shall be filled for the unexpired term by the nomination of the person by the mayor and the appointment by the majority of the board of mayor and aldermen. In absence of action to fill a vacancy in the judge's position by the mayor or board, the position shall be filled by the recorder.

(12) If the municipal judge is unable to perform his or her duties for any reason, sickness, vacation, incompetency, conflict of interest, or recusses himself/herself for any reason, the mayor may appoint a temporary replacement who shall be learned in the law and possess the same qualifications of the regular municipal judge. Said appointment shall be in writing and the temporary judge shall take the same oath of office as the regular judge. In the event a vacancy occurs in the position of municipal judge as described above and the mayor fails to appoint a temporary judge, the position will be filled by the recorder.

(13) The person appointed by the board of mayor and aldermen to serve as municipal judge shall, before entering into or upon the duties of his or her office, take the prescribed oath of office.

(14) The salary of the municipal judge shall be fixed by the board of mayor and aldermen in the annual budget and shall not be altered during the budget year.

(15) The recorder is relieved of all duties powers and jurisdictions hereby conferred upon the municipal judge in this section and to that extent all ordinances; in parts thereof in conflict herewith are repealed, providing, however the recorder may sit as the municipal judge under this section as prescribed in (11) and (12).

(16) The position of assistant municipal or city judge is also hereby established. The assistant municipal judge shall be vested with the same judicial powers and judicial functions as the municipal judge, must meet the same qualifications, and must take the same oath of office. The term and salary of the assistant municipal judge will be determined by the board of mayor and aldermen, but the term may not exceed four (4) years and the salary shall be fixed in the annual budget and not changed during the budget year. Nominations to fill the office of assistant municipal judge shall be made by the mayor with the approval of the board of mayor and aldermen. Any vacancy in the assistant's position may be filled under the same guidelines as the municipal judge.

The assistant municipal judge would only serve in the absence of the municipal judge, or at any other such time directed by the board of mayor and aldermen. (Code of 1982, as replaced by Ord. #94-11, Oct. 1994, and Ord. #2002-02, Feb. 2002; and amended by Ord. #2003-07, April 2003)

1-1002. 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; whether committed to workhouse; and all other information which may be relevant. [Code of 1982]

1-1003. 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. In absence of the town judge, the mayor and the aldermen shall have the power to issue arrest warrants. [Code of 1982]

1-1004. 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 personally to 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. Failure to appear before the municipal court as commanded in a summons or citation lawfully served shall hereby be a violation of The Jonesborough Municipal Code and be deemed a separate violation subject to a fine not to exceed $50.00 plus costs. (Code of 1982, as amended by Ord. #2003-08, April 2003)

1-1005. 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. [Code of 1982]

1-1006. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town judge

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[1]See the Tennessee Code Annotated, title 40, chapter 5, for authority to issue search warrants.

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. [Code of 1982]

1-1007. 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. [Code of 1982]

1-1008. Imposition of fines, penalties, and costs. All fines, penalties and costs shall be imposed and recorded by the municipal judge on the municipal court docket in open court.

(1) Court cost for violations are as follows:
Traffic related violations - $25.00
Non-traffic related municipal code violators - $50.00

(2) Litigation tax shall be as levied as determined in § 1-1013.

(3) Typical traffic related fines are hereby established with not to exceed figures as follows:

POLICE FINES
PRIMARY OFFENSES

			COST BREAKDOWN		
Offense	Fine	Total	Cost	Litigation	State
Speeding 1-15 MPH	$27.50	$80.00	$25.00	$13.75	$13.75
Speeding 16 Plus MPH	$42.50	$95.00	$25.00	$13.75	$13.75
Reckless Driving	$42.75	$98.25	$25.00	$13.75	$13.75
No Driver's License	$23.50	$76.00	$25.00	$13.75	$13.75
Violation of Registration	$33.75	$86.25	$25.00	$13.75	$13.75
Muffler Violation	$23.50	$76.00	$25.00	$13.75	$13.75
Failure to Yield	$27.50	$80.00	$25.00	$13.75	$13.75
Stop Sign	$27.50	$80.00	$25.00	$13.75	$13.75
Traffic Regulatory Sign	$27.50	$80.00	$25.00	$13.75	$13.75
Traffic Control Sign	$27.50	$80.00	$25.00	$13.75	$13.75

Failure to Signal	$27.50	$80.00	$25.00	$13.75	$13.75
Light Violation	$27.50	$80.00	$25.00	$13.75	$13.75
Improper Passing	$27.50	$80.00	$25.00	$13.75	$13.75
Following Too Closely	$27.50	$80.00	$25.00	$13.75	$13.75
Child Restraint 1st Offense	$10.00	$62.50	$25.00	$13.75	$13.75
Child Restraint 2nd Offense	$20.00	$72.50	$25.00	$13.75	$13.75
Seat Belt Violation 1st Offense	$10.00	$62.50	$25.00	$13.75	$13.75
Seat Belt Violation 2nd Offense	$20.00	$72.50	$25.00	$13.75	$13.75
Failure to Yield/Blue Lights/Siren	$27.50	$80.00	$25.00	$13.75	$13.75
Public Intoxication	$50.00	$102.00	$25.00	$13.75	$13.75
Handicap Parking	$50.00	$50.00	$0.00	$0.00	$0.00
Illegal Parking	$20.00	$20.00	$0.00	$0.00	$0.00
Fire Hydrant/Fire Zone	$25.00	$25.00	$0.00	$0.00	$0.00
Open Intoxicant	$41.25	$55.00	$0.00	$13.75	$0.00
Financial Responsibility	$50.00	$102.00	$25.00	$13.75	$13.75

(4) Typical traffic related fines of multiple violations heard in the same court hearing are hereby established with not to exceed figures as follows:

MULTIPLE OFFENSES
POLICE FINES FOR ADDITIONAL OFFENSES
ADDED TO PRIMARY OFFENSE

			COST BREAKDOWN	
Offense	Fine	Total	Litigation	State
Speeding 1-15 MPH	$27.50	$55.00	$13.75	$13.75
Speeding 16 Plus MPH	$42.50	$70.00	$13.75	$13.75
Reckless Driving	$45.75	$73.25	$13.75	$13.75
No Driver's License	$23.50	$51.00	$13.75	$13.75
Violation of Registration	$33.75	$61.25	$13.75	$13.75
Muffler Violation	$23.50	$51.00	$13.75	$13.75

Failure to Yield	$27.50	$55.00	$13.75	$13.75
Stop Sign	$27.50	$55.00	$13.75	$13.75
Traffic Regulatory Sign	$27.50	$55.00	$13.75	$13.75
Traffic Control Sign	$27.50	$55.00	$13.75	$13.75
Failure to Signal	$27.50	$55.00	$13.75	$13.75
Light Violation	$27.50	$55.00	$13.75	$13.75
Improper Passing	$27.50	$55.00	$13.75	$13.75
Following Too Closely	$27.50	$55.00	$13.75	$13.75
Child Restraint 1st Offense	$10.00	$37.50	$13.75	$13.75
Child Restraint 2nd Offense	$20.00	$47.50	$13.75	$13.75
Seat Belt Violation 1st Offense	$10.00	$37.50	$13.75	$13.75
Seat Belt Violation 2nd Offense	$20.00	$47.50	$13.75	$13.75
Failure to Yield/Blue Lights/Siren	$27.50	$55.00	$13.75	$13.75
Public Intoxication	$50.00	$77.50	$13.75	$13.75
Handicap Parking	$50.00	$50.00	$0.00	$0.00
Illegal Parking	$20.00	$20.00	$0.00	$0.00
Fire Hydrant/Fire Zone	$25.00	$25.00	$0.00	$0.00
Open Intoxicant	$41.25	$55.00	$13.75	$0.00
Financial Responsibility	$50.00	$77.50	$13.75	$13.75

(5) Other fines not listed shall be determined by the municipal judge within the limits established by the State of Tennessee, and any other appropriate costs shall be taxed by the municipal judge in the bill of costs at an amount not to exceed the costs for the same items allowed in general sessions court for similar work in state cases.

(6) Failure to appear fine shall be $50.00. (Ord. 24A of April 16, 1906, as replaced by Ord. #2003-08, April 2003)

1-1009. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days[1] next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. [Code of 1982]

1-1010. Bond amounts, conditions, and forms. 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 and 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 within the county. No other type bond shall be acceptable. [Code of 1982]

1-1011. 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 noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. [Code of 1982]

1-1012. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. [Code of 1982]

1-1013. Litigation tax levied. (1) Effective on the first day of the month following the passage of this ordinance,[2] the town litigation taxes in effect in the Jonesborough city court shall be as follows:

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

(2) The litigation taxes levied pursuant to this section shall be paid to the town recorder and these taxes shall be combined with any state litigation tax dollars received to be used for obtaining equipment, facility improvements,

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[1]See § 27-50l, Tennessee Code Annotated.

[2]These provisions were taken from Ord. #92-12, which passed third reading August 17, 1992.

or other such use to support the police department as deemed necessary by the board of mayor and aldermen. (as added by Ord. #92-12, Aug. 1992, and amended by Ord. #2005-11, June 2005)

CHAPTER 11

WORKHOUSE

SECTION
1-1101. County workhouse to be used.
1-1102. Inmates to be worked.
1-1103. Compensation of inmates.

1-1101. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. [Code of 1982]

1-1102. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition permits, shall be required to perform such public work or labor as may be lawfully prescribed for county prisoners. [Code of 1982]

1-1103. Compensation of inmates. Each workhouse inmate shall be allowed five dollars ($5.00) per day as credit toward payment of the fines assessed against him.[1] [Code of 1982]

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[1]See § 40-24104 Tennessee Code Annotated.

CHAPTER 12

SOCIAL SECURITY--TOWN PERSONNEL

SECTION
1-1201. Policy and purpose as to coverage.
1-1202. Necessary agreements to be executed.
1-1203. Withholdings from salaries or wages.
1-1204. Appropriations for employer's contributions.
1-1205. Records to be kept and reports made.
1-1206. Exclusions.

1-1201. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Jonesborough, Tennessee, to extend, at the earliest date, to the employees and officials thereof, not excluded by law or ordinance, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance as authorized by the federal social security act and amendments thereto. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state or federal laws or regulations. [Ord. of Jan. 19, 1954, § 1, modified]

1-1202. Necessary agreements to be executed. The mayor of the Town of Jonesborough, Tennessee, is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. [Ord. of Jan. 19, 1954, § 2]

1-1203. Withholdings from salaries or wages. Withholdings from salaries or wages of employees and officials for the purpose provided in § 1-1201 are hereby authorized to be made in the amount and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. [Ord. of Jan. 19, 1954, § 3]

1-1204. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions and shall be paid over to the state or federal agency designated by said laws or regulations. [Ord. of Jan. 19, 1954, § 4]

1-1205. Records to be kept and reports made. The town shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. [Ord. of Jan. 19, 1954, § 5]

1-1206. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the town. [Ord. of Jan. 19, 1954, § 6]

CHAPTER 13

PURCHASING AGENT

SECTION
1-1301. Established office of purchasing agent.
1-1302. Responsibilities of purchasing agent.
1-1303. Changes or revisions to purchasing provisions.
1-1304. Compliance to Title VI of the Civil Rights Act.

1-1301. Established office of purchasing agent[1]. The office of purchasing agent is hereby created and the town recorder shall faithfully discharge the duties of the said office or appoint an individual to make purchases for the town. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto. [Ord. of April 8, 1985]

1-1302. Responsibilities of purchasing agent. The purchasing agent, or designated representative, as provided herein, shall purchase materials, supplies, service and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with Purchasing Procedures approved by the governing body and filed with the town recorder. [Ord. of April 8, 1985]

1-1303. Changes or revisions to purchasing provisions. After initial approval by resolution of the governing body of this town, changes or revisions to the Purchasing Procedures shall be made only by resolution. [Ord. of April 8, 1985, modified]

1-1304. Compliance to Title VI of the Civil Rights Act. It is the policy of the Town of Jonesborough, Tennessee to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, Part 21. No person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance on the grounds on the grounds of race, color, sex, age, disability, or national origin. [as added by Ord. #2002-16, Dec. 2002]

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[1]This provision is in accordance with TCA 6-56-301.

CHAPTER 14

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

1-1401. Title.
1-1402. Purpose
1-1403. Coverage.
1-1404. Standards authorized.
1-1405. Variances from standards authorized.
1-1406. Administration.
1-1407. Funding the program plan.
1-1408. Severability.
1-1409. Plan of operation for the occupational safety and health program for the employees of Town of Jonesborough.

1-1401. Title. This section shall be known as "the occupational safety and health program plan" for the employees of the Town of Jonesborough. (as added by Ord. #98-03, April 1998, and replaced by Ord. #2013-06, June 2013)

1-1402. Purpose. The Town of Jonesborough, in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees shall:

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

(a) Top management commitment and employee involvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling existing or potential hazards; and

(d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

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

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

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #98-03, April 1998, and replaced by Ord. #2003-11, June 2003, and Ord. #2013-06, June 2013)

1-1403. Coverage. The provisions of the occupational safety and health program plan for the employees of the Town of Jonesborough, shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #98-03, April 1998, and replaced by Ord. #2013-06, June 2013)

1-1404. Standards authorized. The occupational safety and health standards adopted by the Town of Jonesborough are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972.[1] (as added by Ord. #98-03, April 1998, and replaced by Ord. #2013-06, June 2013)

1-1405. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #98-03, April 1998, and replaced by Ord. #2013-06, June 2013)

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[1]State law reference
Tennessee Code Annotated, title 50, chapter 3.

1-1406. Administration. For the purposes of this chapter, the Safety Officer for the Town of Jonesborough is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer the occupational safety and health program for the employees of the Town of Jonesborough. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEAL TH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. Said plan shall become a part of the Jonesborough Personnel Policy upon its adoption. (as added by Ord. #98-03, April 1998, and replaced by Ord. #2003-11, June 2003, and Ord. #2013-06, June 2013)

1-1407. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the board of mayor and aldermen. (as added by Ord. #98-03, April 1998, and replaced by Ord. #2013-06, June 2013)

1-1408. Severability. If any section, sub-section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (as added by Ord. #2013-06, June 2013)

1-1409. Plan of operation for the occupational safety and health program plan for the employees of Town of Jonesborough.[1]

I. PURPOSE AND COVERAGE:

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the Town of Jonesborough.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Jonesborough, in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

a. Provide a safe and healthful place and condition of employment.

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[1]The plan of operation for the occupational safety and health program is added as originally formatted in Ord. #2013-06 dated June 10, 2013.

b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.

c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.

e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.

f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.

g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.

h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees safety and health.

II. DEFINITIONS:

For the purposes of this Program Plan, the following definitions apply:

a. Commissioner Of Labor and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or

deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

b. Employer means the Town of Jonesborough, and includes each administrative department, board, commission, division, or other agency of the Town.

c. Safety Director means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the Town of Jonesborough.

d. Inspector(s) means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.

e. Appointing Authority means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.

f. Employee means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

g. Person means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.

h. Standard means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

i. Imminent Danger means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably

be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

j. Establishment or Worksite means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

k. Serious Injury or Harm means that type of harm that would cause permanent or prolonged impairment of the body in that:

1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

l. Act or Tosh Act shall mean the Tennessee Occupational Safety and Health Act of 1972.

m. Governing Body means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.

n. Chief Executive Officer means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS 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 recognizing any inherent dangers, and to the extent possible 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 and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

f. Employer is entitled to protection of its legally privileged communication.

g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.

h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.

i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEES RIGHTS AND DUTIES:

Rights and duties of employees shall include, but are not limited to, the following provisions:

a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.

c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.

d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance. The employee may request to remain anonymous as set forth in section I (h) of this plan.

e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.

g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards. The employee may remain anonymous by not signing or identifying their self as set forth in section I (h) of this plan.

h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.

i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

k. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.

l. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION:

a. The Safety Director of Occupational Safety and Health/Safety is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.

1. The Safety Director may get assistance in making inspections, and the BMA may approve a designee to carry out the duties in absence of the Safety Director.

2. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.

3. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.

4. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.

5. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where

employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall ma.ke or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

6. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

7. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.

8. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.

b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.

1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan. Safety related appeals can be directed to the Operations Manager or Town Administrator.

2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.

3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety

Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED:

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE:

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

a. The application for a variance shall be prepared in writing and shall contain:

   1. A specification of the standard or portion thereof from which the variance is sought.

   2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.

   3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

   4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.

b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

1. The employer

i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.

ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.

d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING:

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the record-keeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE:

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).

b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably

expected to be seen by the complainant for a period of three (3) working days.

c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Operations Manager, Town Administrator or the Mayor explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

d. The Operations Manager or Town Administrator will evaluate the complaint, begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions if deemed appropriate 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 explaining decisions made and action taken or to be taken.

e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Operations Manager, Town Administrator or Mayor.

f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. <u>EDUCATION AND TRAINING</u>:

a. Safety Director and/or Compliance Inspector(s):

1. Arrangements will be made for the Safety Director and/or Safety Officer(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.

2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical

reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established.

This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.

2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.

3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.

5. Instruct employees on hazards and dangers of confined or enclosed spaces.

   i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.

ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES:

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:

1. To enter at any reasonable time, any Town establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the Town 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 Town employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any Town supervisor, operator, agent, or employee working therein.

b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine

inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

c. The Safety Director may have supervisory staff and/or other Town employees accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

g. Advance Notice of Inspections.

1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.

2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.

2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.

i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES:

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.

2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.

5. The imminent danger shall be deemed abated if:

i. The imminence of the danger has been eliminated by removal of employees from the area of danger.

ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.

b. Refusal to Abate.

1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Operations Manager or Town Administrator immediately.

2. The Safety Director and/or Operations Manager or Town Administrator shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS FOR NON-IMMINENT DANGER:

a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:

1. Issue an abatement order to the head of the worksite.

2. Copy the Operations Manager and Town Administrator with the abatement order.

3. 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 violated.

2. A description of the nature and location of the violation.

3. A description of what is required to abate or correct the violation.

4. A reasonable period of time during which the violation must be abated or corrected.

c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue a followup abatement order and such subsequent order shall be binding unless appealed to the Operations Manager or Town Administrator.

XIV. PENALTIES:

a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.

b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the Town. It shall be the duty of Town Supervisory Staff to administer discipline by taking action as outlined in the Town personnel policies.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION:

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS:

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann. § 50-3-409 can file a

complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED:

a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.

b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statue, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

XVIII. ACCIDENT REPORTING PROCEDURES:

Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record-keeper.

Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from 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 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

The Town of Jonesborough has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX I - NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE TOWN OF JONESBOROUGH

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or Operations Manager.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before _____?_____ for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of THE TOWN OF JONESBOROUGH is available for inspection by any employee at TOWN HALL during regular office hours.

_____ _____

MAYOR DATE

APPENDIX II -WORK LOCATIONS

TOWN HALL

General/Water Administration	15 Employees
Police Department	21 Employees
Fire Department	7 Employees
Recreation Department	4 Employees

123 Boone Street
Jonesborough, TN 37659
423-753-1030 - Town Hall
423-753-1053 - Police/Fire
423-753-0485 - Recreation Dept.

WETLANDS WATER PARK

Persimmon Ridge Park — 1 Employee (Full-time)
1523 Persimmon Ridge Road — (Seasonal Workers - May - Sept.)
Jonesborough, TN 37659
(423) 753-1561

SENIOR CENTER

1521 Persimmon Ridge Road — 5 Employees
Jonesborough, TN 37659
(423) 753-1084

VISITOR CENTER
117 Boone Street — 8 Employees
Jonesborough, TN 37659
(423) 753-1010

CITY GARAGE

Street Dept.	6 Employees
Inventory/Purchasing	1 Employee
Fleet Maintenance Dept.	3 Employees
Meter Reader Dept.	5 Employees
Water Distribution Dept.	17 Employees

122 North Lincoln Ave
Jonesborough, TN 37659

423-753-1000- Inventory
423-753-1004- Street Dept.
423-753-1002- Fleet Maintenance
423-753-1003-Water Distribution
423-753-1005- Meter Reader Dept.

SOLID WASTE
101 Britt Drive — 8 Employees
Jonesborough, TN 37659
(423) 753-1006

WASTEWATER DEPT.
101 Britt Drive — 14 Employees
Jonesborough, TN 37659
(423) 753-1022

WATER TREATMENT PLANT
301 Arnold Road — 9 Employees
Jonesborough, TN 37659
(423) 753-1099

TOTAL NUMBER OF EMPLOYEES: 124

(as added by Ord. #2013-06, June 2013)

CHAPTER 15

ROUNDTABLE ADVISORY COMMITTEE

SECTION
1-1501. Roundtable created.
1-1502. Compositions, appointment, membership and terms.
1-1503. Compensation and vacancies.
1-1504. Election of officers, rules and staff.
1-1505. Meetings.
1-1506. Duties and responsibilities.

1-1501. Roundtable created. The roundtable is created as an advisory committee which will promote communication and cooperation among businesses, the Town of Jonesborough, and other planning and economic development professionals in order to sustain a health overall economy, continued business development, and a high quality of life within the Jonesborough area. [as added by Ord. #98-04, § 2, April 1998]

1-1502. Compositions, appointment, membership and terms. The business roundtable shall be composed of twenty-five appointed members in designated classifications. The town administrator shall designate the specific business classifications. Terms of the members shall be two years. No appointed member shall serve consecutive terms on the roundtable. If however, the appointee is the only person who operates a business in a particular classification, he or she shall serve two years initially and may have consecutive terms. If following a full two-year term, another individual who operates a business under that classification is available to serve, then that classification must be offered for rotation. Upon the expiration of an appointee's term, a former member may be re-appointed to the roundtable if a suitable classification is available after one year from his or her expired term. The appointee may hold the same or a different classification, but must be an owner or operator of an organization that fits the specific classification. Appointed members shall be selected by the mayor and confirmed by the board of mayor and aldermen. In order to establish a rotating membership, twelve of the members shall be appointed initially to have a term of one year, the other thirteen shall serve two years. If a member misses three or more consecutive meetings, his membership position will automatically be vacated.

Ex-officio members shall include, the Chairman of the Jonesborough Regional Planning Commission or his appointee; the mayor or an alderman designated by the mayor; a staff representative of the Washington County-Johnson City-Jonesborough Economic Development Board; an appointed member of the Jonesborough Industrial Development Board, and a

representative of the State of Tennessee Department of Economic and Community Development. [as added by Ord. #98-04, § 2, April 1998]

1-1503. Compensation and vacancies. The members of the roundtable shall serve without compensation. In the event a vacancy occurs among appointed members, such vacancy shall be filled for the unexpired term from an appointment by the mayor with the approval of the board of mayor and aldermen. [as added by Ord. #98-04, § 2, April 1998]

1-1504. Election of officers rules and staff. The roundtable shall elect from its appointed members a chairman, vice-chairman, and a secretary. These elected officers shall constitute the executive committee of the roundtable. The term in any office shall be one year without eligibility for consecutive terms. The roundtable shall hold an organizational meeting in January of each year and it shall adopt its own rules of procedure. At least twelve members shall constitute a quorum for the transaction of business. All town officers, departments, boards and commissions appointed by the board of mayor and aldermen shall render reasonable and necessary assistance to the roundtable. [as added by Ord. #98-04, § 2, April 1998]

1-1505. Meetings. The executive committee shall meet and confer with town staff at least monthly. The time and the place of regular meetings shall be determined by vote of the entire roundtable membership. The chairman or a majority of the entire membership may call special sessions of the roundtable whenever deemed necessary and expedient. [as added by Ord. #98-04, § 2, April 1998]

1-1506. Duties and responsibilities. Appointed members shall devote time to promoting the development of Jonesborough's economy and attend scheduled meetings. The roundtable and its members shall work toward generating new ideas to promote Jonesborough's economy and welfare; and develop short and long-term economic development goals that are in the best interest of the Town of Jonesborough. The roundtable shall work to establish and support goals and priorities set by the group in coordination with the various departments and commissions of the Town of Jonesborough. In particular, the roundtable or its designated members should visit prospective businesses and investors with the town planner/economic development director and staff; and support existing and potential businesses. The roundtable shall exist to promote a positive, professional, pro-business image for the Town of Jonesborough. [as added by Ord. #98-04, § 2, April 1998]

CHAPTER 16

THE JONESBOROUGH TREE AND AND TOWNSCAPE BOARD

SECTION
1-1601. Establishment.
1-1602. Purpose and duties.
1-1603. Approval required.
1-1604. Composition, appointment, membership and terms.
1-1605. Compensation.
1-1606. Rules and staff.
1-1607. Meetings.
1-1608. Rules of procedure.
1-1609. Technical assistance.

1-1601. Establishment. The Jonesborough Tree and Townscape Board is hereby established. [as added by Ord. #2001-14, Sept. 2001]

1-1602. Purpose and duties. The purpose of the tree and townscape board is to develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. (Comprehensive Tree Plan) The tree and townscape board shall develop and recommend a Jonesborough Tree Ordinance. In addition, landscape, townscape, and accessory plans will be developed, administered, and continually updated directing the beautification and landscaping of public parks, open spaces, streets, and ways within the town limits. The tree and townscape board will serve in an advisory and consultant capacity in working with developments within the town limits, and assist the related enforcement officer to meet obligations detailed in the Jonesborough Landscape Ordinance. The board shall consider, investigate, make finding, report and recommend upon any special matter of question or activity requested by the board of mayor and aldermen. [as added by Ord. #2001-14, Sept. 2001]

1-1603. Approval required. The comprehensive tree plan developed by the tree and townscape board shall be presented to the board of mayor and aldermen for approval, and when and if accepted shall constitute the official Comprehensive Tree Plan for the Town of Jonesborough. The tree and townscape board shall review and make recommendations for improvements to the comprehensive tree plan from time to time, as needed, and present these improvements and amendments to the board of mayor and aldermen for its review and acceptance. Formal landscape and beautification plans of public parks and open spaces developed under the direction of the tree and townscape board shall come to the board of mayor and aldermen for approval. The tree and

townscape board shall establish standards and guidelines that govern large and small projects. These standard and guidelines, when approved by the board of mayor and aldermen shall govern activities in public parks, open spaces, streets and ways that do not necessitate formal landscape plans. [as added by Ord. #2001-14, Sept. 2001]

1-1604. Composition, appointment, membership and terms. The tree and townscape board shall be composed of thirteen (13) members determined as follows:

One member shall be a member of the board of mayor and aldermen, submitted by the mayor, and confirmed by the board. The term of the board member shall be contiguous with his or her term on the board of mayor and aldermen. The remaining members shall be appointed by the mayor and confirmed by the board. The terms of the members shall be three-year terms. For the initial appointment only and to allow for staggered terms, four members shall serve a three-year term, four members shall serve a two-year term, and four members shall serve a one-year term. Any vacancy in the membership shall be filled for the unexpired term by the mayor with confirmation by the town board. The board of mayor and aldermen shall have the power to remove any member at anytime with or without cause. [as added by Ord. #2001-14, Sept. 2001]

1-1605. Compensation. Members of the tree and townscape board shall serve without compensation. [as added by Ord. #2001-14, Sept. 2001]

1-1606. Rules and staff. The board shall adopt rules and regulations for the orderly discharge of its duties subject to the approval of the board of mayor and aldermen. Meetings shall normally be held at least monthly and minutes of proceedings shall be recorded and submitted for review by the board of mayor and aldermen at its regular meetings. The director of parks and recreation shall serve as the official staff person, and the director of public works shall act as support staff on an as-needed basis. Other town employees shall serve as staff to the tree and townscape board as deemed appropriate by the director of parks and recreation with the approval of the town administrator. [as added by Ord. #2001-14, Sept. 2001]

1-1607. Meetings. Upon creation by the board of mayor and aldermen, the tree and townscape board shall hold an organizational meeting to elect officers and establish a schedule for regular meetings for the upcoming year. With reasonable notice, special meetings of the committee may be called by the tree and townscape board chairman or the director of parks and recreation. All meetings are open to the public and shall be posted on the community bulletin board at town hall. Beginning in 2002, the tree and townscape board shall hold an annual organizational meeting in November or December each year to elect

officers and set the meeting schedule for the subsequent year. [as added by Ord. #2001-14, Sept. 2001]

1-1608. Rules of procedure. The tree and townscape board shall elect a chair (can be co-chair), vice-chair and secretary from among its members. The term of the chair, vice-chair, and secretary shall be one (1) year with eligibility for re-election, however, officers elected in the first year shall serve initially through December of 2002. Rules and procedures may be modified each year at the organizational meeting, however, changes are subject to the approval of the board of mayor and aldermen. [as added by Ord. #2001-14, Sept. 2001]

1-1609. Technical assistance. The tree and townscape board may obtain persons with expertise in various fields to provide uncompensated technical assistance as needed. Such technical advisors, such as the University of Tennessee/Washington County Extension Agent, and the U.S. Soil Conservationist for Washington County may serve in an ex-officio capacity on the board. [as added by Ord. #2001-14, Sept. 2001]

CHAPTER 17

THE MCKINNEY CENTER ADVISORY COMMITTEE

SECTION
1-1701. Establishment.
1-1702. Purpose and duties.
1-1703. Composition, appointment, membership and terms.
1-1704. Compensation.
1-1705. Rules and staff.
1-1706. Meetings and subcommittees.
1-1707. Officers.
1-1708. Technical advisors.
1-1709. Donations, revenues, expenditures.

1-1701. Establishment. The McKinney Center Advisory Center is hereby established. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1702. Purpose and duties. The purpose of the McKinney Center Advisory Committee is to provide a mechanism for residents and town staff to plan, support, implement, evaluate and otherwise promote various artistic endeavors in Jonesborough in an effort to enhance the quality of life for its citizens. The McKinney Center Advisory Committee shall support, advise and expand Jonesborough's Mary B. Martin Program For The Arts, and shall assist in the development of activities that use the arts and the facility to build relationships and build community. The McKinney Center will also look at effective ways to interpret the history of Booker T. Washington School and the people who attended the facility, while focusing on the McKinney family and their large contribution in making Jonesborough a better place to live and work. The McKinney Center Advisory Committee will assist in developing effective ways of establishing a comprehensive education program in which activities can be carried out in various town facilities. The advisory committee will also assist in generating effective ways of promoting the activities taking place through the McKinney Center and Mary B. Martin programs. The advisory committee is charged with assisting in fundraising and revenue generating that is supporting the operation and sustainability of the various programs. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1703. Composition, appointment, membership and terms. The McKinney Center Advisory Committee shall be composed of nine (9) members determined as follows:

One (1) member shall be a member of the board of mayor and aldermen, or a designee of the mayor, submitted by the mayor and confirmed by the board. The term of the board member shall be contiguous with his or her term on the board of mayor and aldermen, or if the approved designee of the mayor, contiguous with the term of the mayor. The remaining eight (8) positions on the board will be made up of members of the community that are interested in carrying out the purpose and duties of the McKinney Center Advisory Committee as established by the town board. All positions shall be appointed by the mayor and confirmed by the board of mayor and aldermen. The terms of the eight (8) appointed members shall be three (3) year terms. For the initial appointment only, and to allow for staggered terms, three (3) appointed members shall serve three (3) year terms, three (3) appointed members shall serve two (2) year terms, and two (2) members shall serve a one (1) year term. Any vacancy in the appointed membership shall be filled for the unexpired term by the mayor with the confirmation from the board of mayor and aldermen. The board of mayor and aldermen shall have the power to remove any member at any time with or without cause. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1704. Compensation. Members of the McKinney Center Advisory Committee shall serve without compensation, however, a town board member representing the board of mayor and aldermen on the advisory committee may possibly be compensated through a program specifically established for members of the town board. Members of the McKinney Center Advisory Committee may be compensated for any service related to the operation of the Center or provided directly to the advisory committee that is outside the normal duties of an advisory committee member and deemed compensable by the committee or staff. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1705. Rules and staff. The McKinney Center Advisory Committee shall adopt rules and regulations for the orderly discharge of its duties subject to revision by the Jonesborough Board of Mayor and Aldermen. Rules can be amended at any meeting provided that any change is clearly communicated in a notice sent out to members at least one (1) week prior to the meeting in which the change will be addressed. All changes in rules are subject to being further amended by the Jonesborough Board of Mayor and Aldermen. The McKinney Center staff and Jonesborough Parks and Recreation staff shall provide support staff for the committee under the direction of the McKinney Center Director and director of parks and recreation. Other town employees shall serve as staff to the McKinney Center Advisory Committee as deemed appropriate by the town administrator. The McKinney Center Director may request individuals to attend meetings regularly in an ex-officio capacity when it is felt those individuals can provide important information to the advisory committee, and help achieve the

goals of the McKinney Center. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1706. Meetings and subcommittees. Upon its establishment by the Jonesborough Board of Mayor and Aldermen, the McKinney Center Advisory Board will hold an organizational meeting to elect officers and establish a schedule for regular meetings the remainder of the upcoming year. Meetings shall normally be held monthly, however, the McKinney Center Advisory Committee can establish a different meeting schedule as long as that schedule is established for the remainder of the calendar year and properly advertised. Minutes shall be taken of the proceeding of all meetings and submitted to the board of mayor and aldermen for their review at regular meetings. With reasonable notice, special meetings of the McKinney Center Advisory Committee may be called by the committee chairman, the committee itself, the McKinney Center Director or the town administrator. All meetings are open to the public and shall be posted on the community bulletin board at town hall. After the initial meeting of the newly formed McKinney Center Advisory Committee, the advisory committee shall hold an organizational meeting each year to elect officers and establish a meeting schedule for the coming year. In absence of such meeting, the current officers shall serve until they are replaced or until their term ends. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1707. Officers. The McKinney Center Advisory Committee shall elect a chair or co-chair, a vice-chair, and secretary. Terms shall be one (1) year with eligibility for re-election. Officers shall serve until an organizational meeting is scheduled each year, and in absence of a schedule organizational meeting shall serve until they are replaced or their term ends. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1708. Technical advisors. The McKinney Center Advisory Committee may request uncompensated technical assistance from anyone the committee feels can provide needed impact to achieve the mission and goals of the McKinney Center and Jonesborough's Mary B. Martin Program. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

1-1709. Donations, revenues, expenditures. The McKinney Center Advisory Committee may solicit donations, apply for grants, oversee fundraisers and promotions, and otherwise collect revenues under the procedures established by the town recorder. Revenues generated directly from the activities McKinney Center Advisory Committee may be deposited in a McKinney Center Fund or reserved in the Mary B. Martin Fund, and the

advisory committee may advise staff and the board of mayor and aldermen on the use of any funds raised by the advisory committee. The McKinney Center Advisory Committee is not authorized to obligate any funding or mitigate any contract without the possible review and oversight of the Jonesborough Board of Mayor and Aldermen. (as added by Ord. #2003-12, June 2003, and replaced by Ord. #2007-08, Aug. 2007, and Ord. #2014-06, May 2014)

CHAPTER 18

THE KEEP JONESBOROUGH BEAUTIFUL ADVISORY COUNCIL

SECTION
1-1801. Establishment.
1-1802. Purpose and duties.
1-1803. Composition, appointment, membership and terms.
1-1804. Compensation.
1-1805. Rules and staff.
1-1806. Meetings.

1-1801. Establishment. The Keep Jonesborough Beautiful Advisory Council is hereby established. (as added by Ord. #2012-17, Dec. 2012)

1-1802. Purpose and duties. The purpose of the Keep Jonesborough Beautiful Advisory Council is to create a mechanism to provide community input into Jonesborough's participation as an affiliate with the Keep America Beautiful national program. This program focuses on preservation of natural resources the recycling of reusable products and materials, the enhancement of landscaping and beautification efforts not only in public open spaces, and parks, but also with commercial and residential development, and the improvements in water quality in Jonesborough's waterways. In addition, the Keep Jonesborough Beautiful Advisory Council will replace the Jonesborough Recycling and Composting Council taking on the initiatives to increase education in the importance of recycling and the use of composting as well as enhancing community participation in these activities. The Keep Jonesborough Beautiful Advisory Council will also serve as the town's environmental committee referenced in the town's public outreach plan that focuses on educating the general public on activities associated with local efforts to improve stormwater management and water quality. (as added by Ord. #2012-17, Dec. 2012)

1-1803. Composition, appointment, membership and terms. The Keep Jonesborough Beautiful Advisory Council shall be made up initially of five (5) members that will serve as the pre-certification team. These five (5) members shall consist of one (1) member of the board of mayor and aldermen, submitted by the mayor, and confirmed by the board. The term of the board member shall be contiguous with his or her term on the board of mayor and aldermen. The remaining four (4) members of the initial council and pre-certification team shall be appointed by the mayor and confirmed by the board. The terms of the members shall be three (3) year terms. For the initial appointment only and to allow for staggered terms, two (2) members shall serve three (3) year terms, one

(1) member shall serve a two (2) year term, and one (1) member shall serve a one (1) year term.

After the Keep Jonesborough Beautiful program becomes an official certified affiliate of Keep America Beautiful, the Keep Jonesborough Beautiful Advisory Council shall be expanded from five (5) members to nine members. The additional four (4) members shall be appointed by the mayor and confirmed by the board. The terms of these additional members shall also be three (3) years, however, for the initial appointment only and to allow for staggered terms, one (1) member shall have a three (3) year term, two (2) members shall have a two (2) year term, and one (1) member shall have a one (1) year term. Any vacancy in the membership shall be filled for the unexpired term by the mayor with confirmation by the town board. The board of mayor and aldermen shall have the power to remove any member at any time with or without cause. (as added by Ord. #2012-17, Dec. 2012)

1-1804. Compensation. Members of the Keep Jonesborough Beautiful Advisory Council shall serve without compensation. (as added by Ord. #2012-17, Dec. 2012)

1-1805. Rules and staff. The council shall adopt rules and regulations for the orderly discharge of its duties subject to the approval of the board of mayor and aldermen. Meetings shall normally be held at least monthly and minutes of proceedings shall be recorded and submitted for review by the board of mayor and aldermen. A schedule of meetings less often than once a month may be established by the council provided that the meeting schedule for the entire calendar year is established and advertised. The director of solid waste shall serve as the director of the Keep Jonesborough Beautiful Program and serve as staff to the advisory council. Other town employees shall serve as staff to the Keep Jonesborough Beautiful Advisory Council on an as-needed basis or as assigned by the operations manager or town administrator. (as added by Ord. #2012-17, Dec. 2012)

1-1806. Meetings. Upon creation by the board of mayor and aldermen, the Keep Jonesborough Beautiful Advisory Council serving as the pre-certification team shall hold an organizational meeting and elect an interim chairman to direct the council through the certification process. Upon receiving certification as an official certified affiliate, the council shall be expanded to nine (9) members, and an additional organizational meeting shall be held to elect officers and make any changes in the regular meeting schedule. With reasonable notice, special or called meetings of the committee may be called by the council chairman or the director of solid waste. All meetings are open to the public and shall be posted on the community bulletin board at town hall. (as added by Ord. #2012-17, Dec. 2012)

CHAPTER 19

COMMUNITY RESOURCE MEMBERS

SECTION
1-1901. Community resource member status created.
1-1902. Committees defined.
1-1903. Number of community resource members per committee.
1-1904. Appointment.
1-1905. Background requirements.
1-1906. Responsibilities.
1-1907. Voting authority.
1-1908. Committee communications.
1-1909. Terms.
1-1910. Serve without compensation.

1-1901. Community resource member status created. The designation of a community resource member is hereby established that can serve on any town committee, commission, board or council made up of volunteer community members. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1902. Committees defined. Committees defined in this chapter includes all Jonesborough Advisory Committees, Boards, Commissions and Councils made up of volunteer community members with the exception of the planning commission/board of zoning appeals and historic zoning commission whose responsibilities and make up are determined by state legislation. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1903. Number of community resource members per committee. Up to two (2) people can be designated as community resource members for each Jonesborough committee. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1904. Appointment. Community resource members shall be submitted by the mayor and approved by the Jonesborough Board of Mayor and Aldermen. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1905. Background requirements. Community resource members shall be selected based on their expertise, experience and interest in the duties of the committee or the management and leadership skills necessary to carry out the responsibilities of the committee. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1906. Responsibilities. Committee resource members are encouraged to attend all meetings of the Jonesborough committee on which they are placed,

actively participate in the business of the committee, and to provide input and advice on any agenda item addressed by the committee. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1907. Voting authority. A community resource member has the authority to vote on any issue before the committee on which they are placed when any regular member of the committee is absent, and their presence when voting shall be counted as a regular member when determining the number of members present to constitute a quorum of the committee. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1908. Committee communications. Community resource members shall receive all meeting notifications and materials sent out to regular committee members. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

1-1909. Terms. Community resource members shall serve terms established by the town board at their appointment approval, shall serve at the pleasure of the mayor and board of aldermen, and can be replaced at any time by the town board.

1-1910. Serve without compensation. Generally, like regular committee members, community resource members of committees shall serve without compensation unless determined otherwise by the town board. [as added by Ord. #2015-6, June 2015 ***Ch12_04-09-18***]

CHAPTER 20

CHUCKEY DEPOT MUSEUM ADVISORY BOARD

SECTION
1-2001. Establishment.
1-2002. Composition, appointment, membership.
1-2003. Terms.
1-2004. Vacancies.
1-2005. Organization, rules, staff.
1-2006. Meetings.
1-2007. Powers and duties.
1-2008. Compensation.

1-2001. Establishment. The Chuckey Depot Museum Advisory Board is hereby established as a community advisory body to guide the development and operation of the Town of Jonesborough's Chuckey Depot Museum at Jonesborough currently located off Second Avenue, and under the oversight of the Jonesborough Department of Parks and Recreation. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

1-2002. Composition, appointment, membership. The Chuckey Depot Museum Advisory Board, hereinafter called the "advisory board" shall be composed of seven (7) to nine (9) members. The initial advisory board shall be made up of seven (7) members, however, the board of mayor and aldermen may add up to two (2) additional members when deemed necessary. Three (3) of the members shall be the following:

(1) The mayor or his/her designee approved by the Jonesborough Board of Mayor and Aldermen.

(2) The president of the Watauga Valley Railroad Historical Society and Museum (WVRHSM), or a designee appointed by the WVRHSM board of directors.

(3) The president of the Heritage Alliance of Northeast Tennessee and Southwest Virginia (Heritage Alliance), or a designee appointed by the Heritage Alliance Board of Directors.

Four (4) members shall be appointed members and shall be selected by the Mayor and confirmed by the Jonesborough Board of Mayor and Aldermen.

The members of the advisory board shall have one (1) vote each at all advisory board meetings, and shall serve at the pleasure of the board of mayor and aldermen. Members appointed by the board of mayor and aldermen should be dedicated to the successful development and operation of the Chuckey Depot Museum at Jonesborough and its positive impact on Jonesborough. Appointed members may continue to serve until they are re-appointed or replaced. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

1-2003. Terms. The term on the advisory board of the mayor or his/her designee shall be coterminous with the mayor's term on the board of mayor and aldermen.

The terms of the representatives from the Watauga Valley Railroad Historical Society and Museum, and the Heritage Alliance shall be "at the will" of the board of directors of these respective organizations.

The terms of the four (4) members appointed by the mayor and confirmed by the board of mayor and aldermen shall be four (4) years. For the initial appointments to the advisory board only, the term of one (1) member will be four (4) years, one (1) member will be three (3) years, one (1) member will be two (2) years, and one (1) member will have an initial term for one (1) year. The mayor shall have the authority to remove any of the four (4) appointed members. If the town board appoints up to two (2) additional members making the total nine (9) members, the terms of the additional members shall be four (4) years. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

1-2004. Vacancies. A vacancy in membership of one (1) of the three (3) direct representatives of the town, WVRHSM and Heritage Alliance shall be filled by the organization with a vacant representative.
Any vacancy in the four (4) appointed members shall be filled for the unexpired term by the mayor with confirmation of the board of mayor and aldermen. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

1-2005. Organization, rules, staff. The advisory board shall elect from its membership a chairman, vice-chairman, secretary and treasurer. The terms shall be for one (1) year with eligibility for re-election, and officers may continue to serve until an election takes place. The offices of secretary and treasurer may be combined at the discretion of the advisory board. The chairman shall appoint all necessary subcommittees from the advisory board, and the advisory board may adopt its own rules of procedure. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

1-2006. Meetings. The advisory board normally shall meet in regular session at least once every month. The time and place of regular meetings shall be determined by a majority vote of the advisory board members. All meetings shall be advertised and open to the public. The advisory board may determine to not hold a regular monthly meeting by majority vote in advance. Called meetings of the advisory board shall be determined by the chairman or by majority vote of the entire membership. Called meetings must be properly advertised and open to the public. Four (4) members of the advisory board shall constitute a quorum for conducting business at a properly convened meeting of the board. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

1-2007. Powers and duties. The duties of the advisory board shall include the development and operation of the Chuckey Depot Museum at Jonesborough program including the following:

(1) Setting programmatic goals and direction for the museum.

(2) Establishing policy to govern the operations of the program.

(3) Seeking artifacts and information that can enhance the interpretation program.

(4) Approving the acceptance of artifacts and interpretive materials, and making decisions on what artifacts and interpretive elements are displayed or exhibited in the Chuckey Depot Museum.

(5) Developing fundraising activities and the soliciting of donations to support the operation and development of the museum.

(6) Determining how revenue raised for or donated to the museum is used in support of the museum operation and development subject to proper accounting principles established by the town recorder.

(7) Documenting meetings and advisory board decisions making minutes and reports available to the board of mayor and aldermen and partnering organizations on a monthly basis.

(8) Making recommendations to the board of mayor and aldermen on staffing, funding, building maintenance, and support activities that may be generated or undertaken by the town.

(9) Periodically evaluating the progress and development of the various museum programs and interpretive activities, and provide a report on program successes and areas for improvement to the town and partnering organizations.

(10) Assisting in efforts to obtain volunteer support needed in the museum from organizations and individuals in the region.

(11) Determining any fees and charges for participation in museum activities, with said fees and charges being subject to possible review by the board of mayor and aldermen.

(12) Performing such other duties as may be determined by the board of mayor and aldermen from time to time.

(13) Establishing and appointing any subcommittees needed for fundraising, marketing, interpretation, etc.

Except as designated above, the advisory board shall act in an advisory capacity only, and shall have no authority to bind or financially obligate the board of mayor and aldermen or the Town of Jonesborough in any way except as the board of mayor and aldermen may approve or direct. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

1-2008. Compensation. The members of the Chuckey Depot Advisory Board shall serve without compensation. [as added by Ord. #2016-07, July 2016 ***Ch12_04-09-18***]

CHAPTER 21

AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE AND ADVISORY COMMITTEE

SECTION
1-2101. Establishment.
1-2102. Purpose.
1-2103. ADA Coordinator.
1-2104. Committee membership.
1-2105. Meetings.

1-2101. Establishment. The Jonesborough ADA Compliance and Advisory Committee is hereby established. [as added by Ord. #2016-11, Oct. 2016 ***Ch12_04-09-18***]

1-2102. Purpose. The committee shall evaluate public services, programs and facilities and assist in determining Jonesborough's compliance to provisions of the American's with Disabilities Act. The committee will undertake the following:

(1) Review ADA requirements that govern ADA access to local programs, services and facilities.

(2) Review Jonesborough's level of compliance to ADA provisions.

(3) Assist in self-evaluation of ADA compliance and the development of a transition plan that is designed to identify areas of needed improvements for handicapped accessibility, a priority list for corrective actions, a projected schedule for implementation of improvements needed, and estimates of costs for budgeting purposes.

(4) Develop public notification of the existence and purpose of the ADA Compliance and Advisory Committee.

(5) Act as a grievance committee for ADA related concerns, and establish grievance procedures that will hear and address any citizen complaints about the lack of appropriate ADA access to public services, programs and facilities within the Town of Jonesborough.

(6) Monitor the progress of ADA related improvements, and provide feedback and recommendations to town staff and the Jonesborough Board of Mayor and Aldermen to improve handicapped accessibility in town. [as added by Ord. #2016-11, Oct. 2016 ***Ch12_04-09-18***]

1-2103. ADA Coordinator. An ADA Coordinator will be appointed by the Board of Mayor and Aldermen that will chair the ADA Compliance and Advisory Committee. The ADA Coordinator will be recommended by the mayor and approved by the town board. The ADA Coordinator will serve at the pleasure

of the Mayor and will remain in the position until replaced. [as added by Ord. #2016-11, Oct. 2016 ***Ch12_04-09-18***]

1-2104. Committee membership. The committee shall consist of five (5) members; including the ADA Coordinator who will serve as chairman. Members will be nominated by the mayor and approved by the town board. Members will serve at the pleasure of the mayor and will remain on the committee until replaced. Recommended members include the town building inspector, consulting engineer knowledgeable of ADA access requirements, and two (2) members of the community with an interest in ADA compliance issues, with the preference that one (1) of the two (2) community members is handicapped. Committee members shall serve without compensation. [as added by Ord. #2016-11, Oct. 2016 ***Ch12_04-09-18***]

1-2105. Meetings. The committee shall establish a meeting schedule and location, but shall meet at least on a quarterly basis during the calendar year. The committee shall hold a meeting to hear any ADA related grievance within forty-five (45) days of the submission of the grievance. [as added by Ord. #2016-11, Oct. 2016 ***Ch12_04-09-18***]

CHAPTER 22

QUALIFYING COMMITTEES

SECTION
1-2201. Qualifying committees.
1-2202. Meeting attendance requirements to receive compensation.

1-2201. Qualifying committees. The town charter requires the board of mayor and aldermen to establish a qualifying list of committees in which any board of mayor and aldermen member receiving the level of compensation established in the charter must attend in order to receive any compensation. The qualifying list of committees approved is as follows:

(1) Jonesborough Planning Commission.
(2) Jonesborough Historic Zoning Commission.
(3) Jonesborough Senior Citizens Advisory Committee.
(4) Tree and Townscape Board.
(5) Traffic Advisory Committee.
(6) Jonesborough Recreation Advisory Committee.
(7) McKinney Center Advisory Committee.
(8) Chuckey Depot Advisory Committee.
(9) Jonesborough Repertory Theatre Board of Directors.
(10) Emergency Management Services Board of Directors.
(11) Northeast TN Regional Economic Partnership.
(12) BrightRidge Board of Directors.
(13) Main Street Jonesborough Board of Directors.
(14) Heritage Alliance Board of Directors.
(15) Any additional committee formed by ordinance of the Jonesborough Board of Mayor and Aldermen that has a town designated committee member position filled by a town board member that has been confirmed by vote of the board of mayor and aldermen; or any county or regional committee membership position designated for the town that is filled by a BMA member that has been confirmed by vote of the board of mayor and aldermen. [as added by Ord. #2019-5, March 2019 ***Ch13_03-08-21***]

1-2202. Meeting attendance requirements to receive compensation. In order to meet town charter requirements associated with receiving compensation, a member of the board of mayor and aldermen must attend a meeting of the board of mayor and aldermen and a meeting of a qualified committee of which they are a designated member to receive a one hundred dollar ($100.00) level of compensation per month; in order to receive two hundred dollars ($200.00) in compensation each month the town board member must attend a regular meeting of the board of mayor and aldermen, a qualified committee meeting of which they are a designated member of the committee,

and a seconded qualified committee meeting in which they are either a designated member or are attending as just a "spectator". [as added by Ord. #2019-5, March 2019 ***Ch13_03-08-21***]

TITLE 2

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
2-101. Definition of "alcoholic beverages."
2-102. Consumption of alcoholic beverages on premises.
2-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
2-104. Annual privilege tax to be paid to the town recorder.
2-105. Gross sales tax.
2-106. Sale otherwise prohibited.
2-107. Intoxicating liquor on public property.
2-108. Retail liquor stores.
2-109. Food stores selling wine.

2-101. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. [Ord. #30, April 1906; Ords. #44–48, April 1906, as replaced by Ord. #2002-17, Dec. 2002]

2-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Jonesborough, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Jonesborough, Tennessee, the same as if said code sections were copied herein verbatim. [as added by Ord. #2002-17, Dec. 2002]

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[1]For general provisions in the state law, see Tennessee Code Annotated, title 57.

2-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the Town of Jonesborough General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Jonesborough alcoholic beverages for consumption on the premises where sold. [as added by Ord. #2002-17, Dec. 2002]

2-104. Annual privilege tax to be paid to the town recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Jonesborough shall remit annually to the town recorder the appropriate tax described in § 2-103. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following each event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. [as added by Ord. #2002-17, Dec. 2002]

2-105. Gross sales tax. It shall be the responsibility of the town recorder to ensure that the town receives its share of the fifteen percent (15%) tax levied on the gross sales of alcoholic beverages sold at retail for consumption on premises and collected by the commissioner of the alcoholic beverage commission under Tennessee Code Annotated, § 57-4-301(c), and distributed to the state and its political subdivisions under Tennessee Code Annotated, § 57-4-306. [as added by Ord. #2002-17, Dec. 2002]

2-106. Sale otherwise prohibited. Except as authorized by applicable laws, the provisions of this title and/or other ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Jonesborough. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spiritous, vinous, or malt liquors and beer which contain more than five percent (5%) of alcohol by weight. [as added by Ord. #2002-17, Dec. 2002]

2-107. Intoxicating liquor on public property. That it shall be unlawful for any person to drink or consume, or have an opened container of beer or intoxicating liquor in or upon any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place, with the

exception of restaurants permitted by the state alcoholic beverage commission for the sale of alcoholic beverages that also obtain and have a current outdoor use area permit from the board of mayor and aldermen. [Ord. of September 10, 1984, as replaced by Ord. #2002-17, Dec. 2002, and amended by Ord. #2010-07, June 2010]

2-108. Retail liquor stores. (1) Sale authorized. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store within the corporate limits of Jonesborough; provided such retail license has been appropriately approved by the town and the state, and such sales are made in compliance with applicable state and federal statutes, rules and regulations, as well as the provisions established in this chapter.

"Retail liquor stores" are defined as stores licensed under Tennessee Code Annotated, § 57-3-208, to sell wine, intoxicating liquors and beer of over five percent (5%) alcohol content; "retail liquor stores" are not food stores permitted by the ABC to sell wine under Tennessee Code Annotated, § 57-3-806.

(2) License and certificate required. It shall be unlawful for any person, firm or corporation to sell alcoholic beverages at retail without first obtaining a license for such privilege in an off-premises liquor store through the State of Tennessee Alcoholic Beverage Commission, and without obtaining a certificate of compliance for a specific store location by the Jonesborough Board of Mayor and Aldermen as required by Tennessee Code Annotated, § 57-3-208.

(3) License restrictions. The requirements or restrictions established in Tennessee Code Annotated, §§ 57-3-204 to 57-3-210 apply to applicants for a retail liquor store license in Jonesborough, including, but not limited to, the following:

(a) No retail license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city or county except as specified in Tennessee Code Annotated, § 57-3-210(b)(2).

(b) No retailer or any employee shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time of the application, with the exception of such person whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. No license shall be issued to a retailer who within ten (10) years preceding the application has been convicted of any offense under the laws of Tennessee or any other state in the United States prohibiting or regulating the sale, possession, transportation, storing, or manufacturing or otherwise handling of intoxicating liquors.

(c) No person shall have ownership in, or participate in, either directly or indirectly, the profits of any wholesale or retail liquor business licensed through the Tennessee Code Annotated unless the interest in such business and the nature, extent and character thereof shall appear

on the application or unless such interest is fully disclosed to the Alcoholic Beverage Commission and is approved by it.

(d) No person shall be employed unless they are a citizen of the United States.

(e) No retailer or any employee thereof shall be a person under eighteen (18) years of age.

(f) A retailer must currently be a resident of the State of Tennessee for two (2) years or previously for at least ten (10) years consecutively.

(4) License application. Any person, firm, or corporation desiring to sell alcoholic beverages at a retail liquor store and not for consumption on premises shall make application to the Tennessee Alcoholic Beverage Commission (ABC) for a retailer's license. The following conditions apply:

(a) Conditions established in Tennessee Code Annotated, § 57-3-204, must be met including a one (1) time initial application fee of three hundred dollars ($300.00) or current application fee, an additional permit fee, as well as any applicable Rules and Regulations of the Alcoholic Beverage Commission.

(b) The license application must be accompanied by a properly executed certificate of compliance from the Town of Jonesborough.

(c) The license expires in twelve (12) months following the date of issuance. Each licensee must submit renewal applications annually to the ABC accompanied by the annual license fee.

(d) The applicant for a license must meet the public notice requirements established in section 0100-03-.09 (10) and (11) of the Rules of the Alcoholic Beverage Commission.

(5) Application for certificate of compliance. An applicant for a license shall first obtain a certificate of compliance from the Town of Jonesborough, as provided in Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the town recorder. The application includes a request for a certificate of good moral character, as provided by Tennessee Code Annotated, §§ 57-3-101, et seq. Applications shall include, but not be limited to, the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the town.

(b) Statement that each applicant or member in the applicant group has been a bona fide resident of the State of Tennessee for at least two (2) years preceding the date the application is filed.

(c) The names and addresses of at least three (3) residents of the town or state that have known each applicant for at least two (2) years.

(d) Occupation or business name and location of such business of applicant or persons in the applicant group, and length of time engaged in such occupation or business, including the name of the licensee and address of any other off-premises liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group members holding each interest.

(e) In the case where the applicant is a partnership, corporation, limited liability company or other such legally recognized entity, the application shall be accompanied by a copy of the partnership agreement, corporate charter, operations agreement or other such document as well as a breakdown of all partners, shareholders, members, etc. with their ownership percentages.

(f) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the retail liquor store.

(g) Certification that the applicant or applicant group or any employee, now intended or in the future that will be employed to manage or assist in the operation of the retail liquor store has not been convicted of a felony involving moral turpitude within the ten (10) year period immediately preceding the date of the application, or any Jonesborough Municipal Ordinance alcohol violation. In order to satisfy the certification of no conviction of a felony involving moral turpitude, the applicant must at his or her own expense undertake a national background search of all individuals involved in the ownership, partnership, etc. of the retail liquor store and provide documentation to the Jonesborough Police Department that all individuals involved in the search are free of any felony convictions as designated. The applicant should contact the Jonesborough Police Department in advance to ensure that the firm used to undertake the background search(es) is acceptable.

(h) Name of the retail liquor store proposed in the application and the zoning designation applicable to such location.

(i) Address of the retail liquor store proposed in the application.

(j) A site plan drawn to a scale of not less than one inch (1") equals twenty feet (20') that includes the following information:

(i) The shape, size, and location of the lot which the retail liquor store is to be located.

(ii) The shape, size, height, number of floors and location on the lot of all buildings whether they are to be erected, altered, moved or existing upon the lot.

(iii) Off-street parking spaces and off-street loading/unloading area.

(iv) Ingress and egress to lot.

(v) Location of all doors accessing the building with designation of public access to building and designation of any landscaping, walls, fencing or other such possible obstruction limiting visual access to building entrances.

(vi) Designation of zone(s) of lot and adjoining properties.

(vii) Owners of adjoining properties, designation of use, and name of any business.

(viii) The identification of every parcel within two hundred feet (200') of the lot which the liquor store is to be operated, indicating ownership thereof, and the locations of structures situated thereon and the use being made of every such parcel.

(ix) Lighting of building exterior and parking area.

(k) Certification by the applicant stating that the premises of the proposed retail liquor store are in full compliance with the distance requirements established in § 2-108(8) of this chapter.

(l) The agreement of each applicant to comply with state and federal statutes, Jonesborough regulations governing retail liquor stores, and all state rules and regulations with reference to the sale of alcoholic beverages.

(m) Verification that the applicant has secured the location for the business at the location submitted in the application.

(n) A time schedule detailing any construction or renovation of the store building, improvements to grounds, and store opening date.

(o) The application form shall be signed and verified by each person who has any interest in the license either as owner, partner, stockholder, director, officer or otherwise.

(6) Application advertising requirements. Before a certificate of compliance application for a retail liquor store may be considered by the planning commission and then the board of mayor and aldermen, whether the application is for a transfer of an existing license to a new location or for a new license, the applicant must place at least one (1) advertisement, at his/her own expense, in a newspaper of general circulation in the town, a minimum of seven (7) days prior to the application being initially reviewed by the Jonesborough Planning Commission, with the published notice including the following information.

(a) Name and address of applicant.

(b) Nature and purpose of application.

(c) Location/address of store location.

(d) Date the application is proposed to be reviewed by the planning commission.

(7) Review and consideration of initial applications for certificate of compliance. Applications to the town for a certificate of compliance needed to license a retail liquor store shall be submitted to the town recorder. The town recorder shall review the documentation provided to see that all information

requested has been submitted and appears to be complete. Although the recorder will initially review materials submitted for compliance, and will to the extent possible identify insufficient information, it is responsibility of the applicant to provide all of the information required regardless of the recorder's review. When the recorder does identify insufficient information, the applicant shall have until the materials are sent to the planning commission to complete the application packet. An application shall not be deemed "filed" until it contains all of the information requested. After the initial review, a date shall be determined to send the full application to the planning commission for consideration. The applicant must provide proper notification in an acceptable publication at least seven (7) days in advance of the meeting in which the planning commission will consider the application. In reviewing the application, the planning commission shall consider at least the following:

(a) Whether the application meets all state and federal requirements.

(b) When there is more than one (1) application for a certificate of compliance in the same overlay zone area, the planning commission shall consider at least the following without regard to the order the applications were filed:

(i) The retail store locations submitted and the considerations of safety, lighting, ingress and egress, size of store, impact on traffic patterns, and ease of enforcement relative to each location.

(ii) The most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of Jonesborough and the lawful operation of an off-premises retail liquor store.

(iii) The ability of the applicant to obtain the necessary license from the state, and to construct, renovate or otherwise develop the premises necessary for the retail store and open it to the public in a timely manner.

(iv) The compatibility of the building and landscaping with the surrounding properties, including building materials, roof pitch, etc., as well as compatibility with any town vision for commercial area in Jonesborough.

(c) Initially, the town will advertise, at a convenient time, the projected schedule for adoption of the ordinance governing location, number, and other considerations regulating retail liquor stores and the issuance of a certificate of compliance. The notice will also establish a date the ordinance will become effective which will be the first date to received applications. The projected meeting date of the planning commission in which liquor store applications will be reviewed shall also be included in the notice, as well as the date the board of mayor and aldermen will act on the applications so that the application, review, and

approval/denial process falls within the sixty (60) day requirement for action outlined in Tennessee Code Annotated, § 57-3-208.

(d) If a retail liquor store becomes available in an existing zone area or a new store zone is established, any voluntary request to transfer an existing and operating store location shall be evaluated and considered based on the criteria in subsection (7)(b) the same as any other application submitted.

(e) Applications, and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the town and constitute public records open to public inspection.

(f) Because of the sixty (60) day requirement for board action applications outlined in Tennessee Code Annotated, § 57-3-208, any application submitted that is not approved for a certificate of compliance shall be denied by the board of mayor and aldermen. Said applications, however, shall be held by the town until the retail liquor store(s) approved are open and operating. At that time, the application may be disposed of by the town. If the approved store is not licensed by the ABC or fails to open in a timely manner and loses its license, the applications on file for a certificate of compliance may be reactivated and considered submitted upon written request by the applicant.

(8) Restrictions on location of and access to retail liquor stores. No location for a retail store shall be approved on any premises within the town, except on premises that are:

(a) Zoned B-3.

(b) Within a Retail Liquor Store (RLS) Overlay Zone made up of two (2) or more separate areas within the B-3 or other zones with one (1) and only one (1) retail store authorized per RLS Overlay Zone area.

(c) At least two hundred feet (200') from the nearest portion of any church, public or private school ground, day care, public playground or park, public recreational facility, or residential dwelling unit except if the dwelling unit is located within a building that contains mixed uses. For the purposes of measurement, the distance shall be determined from the center of the public entrance to the retail liquor store in a straight line the shortest most direct distance to the major entrance to the facilities and institutions listed. The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, and the future presence of any uses listed above in this subsection (8)(c) necessitating the two hundred foot (200') distance requirement shall not be grounds for revocation of a license or denial of a certificate if a valid license had been issued to any retail liquor store at the same location and the business has been in continuing operation since that date.

(d) Developed with a building in which the retail liquor store is only on the ground floor.

(e) Under normal circumstances a retail liquor store shall have one (1) entrance for use by the public. Circumstances may exist, like the premises being served by multiple public streets, or an on-premises liquor store being attached to a large complex, in which the applicant may petition for a second public entrance. However, the planning commission will have to recommend the second entrance, and in no case shall the retail liquor store have more than two (2) public entrances.

(9) Number of stores - adequate availability. For the purpose of determining whether alcoholic beverages are generally available in the town, or whether the town is being adequately served, it will be presumed, absent proof to the contrary, that alcoholic beverages are generally available and that the area is being adequately served when the ratio between the number of operating liquor stores in the town and the population of the town is less than or equal to one (1) store for each three thousand (3,000) town residents or fraction thereof.

(a) No new location for a retail liquor store, except a transfer from one (1) location to another in special circumstances fixed by rules or regulation of the State Alcoholic Beverage Commission, as authorized by statute, shall be approved unless it is determined that alcoholic beverages are not generally available in the town or that the town is not being adequately served by currently operating liquor stores.

(b) The determination by the Jonesborough Board of Mayor and Aldermen concerning the general availability of alcoholic beverages or the adequacy of service in the town shall be binding. However, upon proof of materially changed conditions, the town board may alter, amend or change its determination; provided that such a determination shall not affect those retail liquor licenses issued and in current and continuous use by the same licensee holder. Proof to rebut the presumption of adequacy shall be submitted to and considered by the planning commission and recommended to the board of mayor and aldermen.

(10) (a) Restrictions on issuance of certificate of compliance. No original or renewal certificate of compliance shall be issued for any location until:

(i) An application has been filed with the town recorder.

(ii) All requirements to obtain a certificate have been met, and the application complies with all restrictions as to location and number of retail licenses issued within Jonesborough.

(iii) A written certification by the applicant is submitted stating that the premises of the retail liquor store are in full and complete compliance with the distance requirements established in § 2-108(8) of this chapter.

(iv) The application shall be signed and verified by each person to have an interest in the retail liquor store either as an owner, partner, stockholder or otherwise.

(v) The application has been reviewed and considered by the Jonesborough Planning Commission and recommended to the board of mayor and aldermen.

(vi) The application has been considered at a regular or called meeting of the Jonesborough Board of Mayor and Aldermen and approved by majority vote.

(b) Requirements for a renewal certificate of compliance. It is the responsibility of the owners of an existing retail liquor store in Jonesborough to submit an application for renewal of a certificate of compliance and the information required in a timely manner, at least forty-five (45) days before any action by the town is anticipated. Any required background checks due to a change in ownership or partnership must be undertaken prior to the application being submitted to the town recorder. The requirements for a renewal certificate of compliance are as follows:

(i) A renewal application must be filled out and filed with the town recorder.

(ii) A written certification signed and verified by each person having an interest in the retail liquor as an owner, partner, stockholder or otherwise, must be submitted as a component of the renewal application that states the following:

(A) The retail liquor store is located on the same parcel it was when the last certificate of compliance was approved and issued to the owners.

(B) The existing retail liquor store continues to meet the site requirements approved by the Jonesborough Police Department, Jonesborough Regional Planning Commission, and the Jonesborough Board of Mayor and Aldermen.

(C) The owner(s) must certify that they do meet and will continue to meet the current requirements and regulations for retail liquor stores issued by the Town of Jonesborough, and Tennessee Code Annotated, §§ 57-3-204 to 57-3-204, along with any amendments.

(D) Each owner or member of the owner group has been a resident of the State of Tennessee for at least two (2) years preceding the date of the renewal application submitted.

(11) Term of certificate of compliance. Once issued by the board of mayor and aldermen, a certificate of compliance required by Tennessee Code Annotated, § 57-3-208, shall be valid for two (2) years. A new certificate therefor

is required every other year, to be submitted to the ABC with application for the annual license renewal.

(12) Full and accurate disclosure required. (a) It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail store license under this chapter, unless his/her interest in the business and the nature, extent and character thereof shall appear on the application for a certificate of compliance; or if the interest is acquired after the issuance of a license, unless it is fully disclosed to and approved by the board of mayor and aldermen (town administrator). Where such interest is owned by such a person on or before the application for any certificate, the burden shall be upon such person to see that this section is not violated, whether he/she signs or prepares the application, or whether the same is prepared by another; or if the interest is acquired after the issuance of the certificate, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(b) Misrepresentation of a material fact, or concealment of a material fact, required to be shown in the application for a license or certificate shall be a violation of this chapter. The board of mayor and aldermen may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the retail liquor store, or if the interest of any applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by any applicant concerning any matter related to the operation of the business. All data, written statements, affidavits, evidence, or other documents submitted in support of an application are part of the application.

(c) If the provisions of this section and chapter are alleged to have been violated, the board of mayor and aldermen may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant(s) or licensee to refute such allegations and/or show cause why the certificate should not be revoked.

(13) Regulation of retail sales. Retailers licensed under Tennessee Code Annotated, § 57-3-204, shall comply with the regulation of retail sales established in Tennessee Code Annotated, § 57-3-406, included, but not limited, to the following:

(a) Hours and days of operation - No retailer shall sell or give away or otherwise dispense any alcoholic beverages except between the hours of 8:00 A.M. and 11 :00 P.M. on Monday through Saturday. No retailer shall sell or give away alcoholic beverages between 11 :00 P.M. on Saturday and 8:00 A.M. on Monday each week.

(b) Sale during holidays - No retailer shall sell or give away alcoholic beverages on Thanksgiving Day, Christmas Day, New Year's Day, Independence Day (Fourth of July), and Labor Day.

(c) No pinball machine, music machine, or other amusement device shall be permitted in any liquor store.

(d) No alcoholic beverages shall be sold for consumption on the premises of the retailer.

(e) Retail liquor stores shall only sell alcoholic beverages.

(f) The sale and delivery of alcoholic beverages at a retail liquor store shall be confined to the building premises of the licensee, and no curb service or drive-thru service is permitted.

(14) License display. Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post and keep displayed and posted, in the most conspicuous place in their premises, such license.

(15) Advertising/signage. Advertising by a licensee, and signs, displays, posters and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the Tennessee Alcoholic Beverage Commission and/or the sign provisions and restrictions of the underlying zoning district as may be specified in the Jonesborough Sign and Zoning Ordinances.

(16) (a) Transfer of license and certificate. The holder of a license for a retail liquor store may not sell, assign or transfer such license to any other person, and such license shall be good and valid only for the twelve (12) months after the same was issued. Except as expressly authorized, there shall be no transfer of any license from one (1) location to another. An application for a retail liquor store license from the Alcoholic Beverage Commission resulting from a change in ownership or store location shall require a re-submittal of an application for a certificate of compliance.

(b) Requesting to transfer location of existing retail liquor store operating in good standing. An existing retail liquor store previously approved to operate in Jonesborough by the board of mayor and aldermen and the Tennessee Alcohol Beverage Commission that submits a request to transfer its retail liquor store operation to a new location may do so without the town opening up the process to additional applicants; provided the existing owner(s) meets the following conditions:

(i) The existing store is in good standing at the time the request to transfer location is submitted.

(ii) The location where the store is to be moved is in a proper zone and is in the same designated area of the Retail Liquor Store Overlay.

(iii) A site plan is developed that addresses the required components of a site plan for a retail liquor store, and that plan is approved by the Jonesborough Regional Planning Commission and found acceptable by the Jonesborough Police Department.

(iv) A renewal application for a certificate of compliance is submitted to the Jonesborough Board of Mayor and Aldermen on a schedule in which the town board deliberates possible action after approval of the new store location layout and site plan by the planning commission and is found acceptable to the Jonesborough Police Department.

(v) At the time the new location and associated site plan is submitted to the town board for approval, any change in ownership must be addressed as well by submitting information and certifications required.

(17) Inspection fee levied. For the purpose of providing a means of regulating the sale of alcoholic beverages within the town, and to provide means of enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of five percent (5%) of the wholesale price of all alcoholic beverages sold by wholesalers to any licensed retail liquor store within the corporate limits of Jonesborough. Collection of this inspection fee by wholesalers shall be undertaken under regulations established in Tennessee Code Annotated, §§ 57-3-501 to 57-3-503, including, but not limited to:

(a) The inspection fee is imposed upon licensed retailers but is collected by wholesalers.

(b) The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages, and said fee may be added by the wholesaler to the invoice for the alcoholic beverages sold to the licensed retailers.

(c) Each wholesaler making sales to retailers located within the Jonesborough town limits shall make monthly payments to the town.

(d) Monthly payments shall be paid by the twentieth day of the month following which sales were made, and shall be accompanied with monthly reports that include the information required in Tennessee Code Annotated, § 57-3-503.

(e) Wholesalers collecting and remitting inspection fees to the town shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of the inspection fees collected, and such reimbursement may be deducted and shown on the monthly report to the Town of Jonesborough.

(f) Failure to collect and/or report and/or to pay the inspection fee collected by the day required shall result in a penalty of ten percent (10%) of the fee due, which shall also be paid to the town.

(g) The Town of Jonesborough has authority to audit the records of wholesalers reporting sales to retail liquor stores in Jonesborough to determine the accuracy of reports.

(h) Nothing within this § 2-108(17) herein shall relieve the licensee of the obligation for the payment of the inspection fee, and it

shall be the licensee's duty to see that the payment of the inspection fee is made to the town recorder.

(i) The inspection fee levied in this chapter shall be in addition to any general gross receipts, sales and other general taxers applicable to the sale of alcoholic beverages, and shall not be in substitution for such taxes.

(18) Surrender of license if business discontinued. Whenever any licensee discontinues business for any reason, he/she shall immediately notify the alcohol beverage commission and the town recorder in writing and surrender the licensee and certificate of compliance.

(19) Revocation procedures. Whenever the board of mayor and aldermen find that a licensee has been, or is, in violation of the Tennessee Code Annotated, title 57, chapter 1, the Rules and Regulations of the Alcoholic Beverage Commission, or the provisions of this chapter, the board shall certify such violation(s) to the State Alcoholic Beverage Commission, in such form as the commission requires. The Alcoholic Beverage Commission shall have the responsibility for determining whether the offender's license shall be revoked. The board of mayor and aldermen, upon determination of violations of state or local regulations governing the retail sale of alcoholic beverages may revoke the town issued certificate of compliance, and shall communicate said revocation to the Alcoholic Beverage Commission for possible further action.

(20) Penalties. Any violation of the terms of this chapter and section may be punishable by a fine under the general penalty clause of the Jonesborough Municipal Code in addition to any other penalty herein provided, and in addition to the loss of license. Each separate occurrence shall constitute a separate violation. (as added by Ord. #2011-03, Jan. 2011, and amended by Ord. #2016-01, Feb. 2016 ***Ch12_04-09-18***, Ord. #2018-10, Aug. 2018 ***Ch13_03-08-21***, Ord. #2019-06, April 2019 ***Ch13_03-08-21***, and Ord. #2020-02, March 2020 ***Ch13_03-08-21***)

2-109. Food stores selling wine. (1) Sale authorized. It shall be lawful for a licensee to sell wine at retail in a food store within the corporate limits of Jonesborough; provided background checks on the food store manager and responsible corporate officer and zoning are properly certified by the Jonesborough Board of Mayor and Aldermen and the license to sell wine has been properly issued by the Tennessee Alcoholic Beverage Commission under criteria established in Tennessee Code Annotated, § 57-3-806.

(2) License and certificate required. It shall be unlawful for any food store to sell wine at retail without first obtaining a certificate of compliance certifying clear background checks and the proper zoning, as well as an approved license to sell wine has been obtained from the Tennessee Alcoholic Beverage Commission.

(3) Number of food stores with license to sell wine retail. There is no limit to the number of food stores that can be permitted to sell wine if they meet local and state criteria.

(4) Application for certificate of compliance. Applications for a certificate of compliance must be filled out completely, and the completed application must be acted upon by the Jonesborough Board of Mayor and Aldermen within sixty (60) days or the application is deemed granted.

(a) A background check must be undertaken on the store manager, and, if a corporation, the CEO or corporate officer responsible for the food store in Jonesborough.

(b) The required background checks must determine if the manager or corporate officer in charge has been convicted of a felony in the last ten (10) years.

(c) The background checks must be initiated by the applicant and the cost of the background check will be the sole responsibility of the applicant. Background checks must be undertaken by a reputable firm, approved by the state and federal government, that can undertake a national search using fingerprint technology to determine if a felony has been committed in the last ten (10) years. Background search results must be submitted to the Town of Jonesborough along with the necessary address and contact information of the firm utilized for the search so a verification of results can be obtained. An application for a certificate of compliance is not considered complete until the background check results have been submitted to the town.

(d) The property must be properly identified to allow town staff and the town board to make a determination of proper zoning.

(e) A certificate of compliance application fee will be two hundred fifty dollars ($250.00) or the maximum allowed by state law. [as added by Ord. #2016-01, Feb. 2016 ***Ch12_04-09-18***]

CHAPTER 2

BEER[1]

SECTION

2-201. Beer board.
2-202. Authorization of beer businesses.
2-203. Location of beer businesses.
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2-205. Playing of pool or billiards prohibited where beer is sold or otherwise dispensed.
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2-210. Restrictions on financial interests of beer permit holders.
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2-215. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited.
2-216. Suspension or revocation of beer permits.
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2-220. Information to be kept on file with or available to the town recorder.
2-221. Severability.
2-222. Classes on-premises permits.
2-223. Catering permits.
2-224. Special events permit.
2-225. Manufacturer's tasting room permit.
2-226. Special event beer permit.
2-227. Servers must have license.
2-228. Violations and fines.

2-201. Beer board. There is hereby created a board, to be known as the Jonesborough Beer Board, which shall be composed of the members of the Board

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[1]State Law Reference:

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

of Mayor and Aldermen of the Town of Jonesborough, whose duty it shall be to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store, distribute, dispense, serve, and/or manufacture beer and other beverages of like alcoholic content not in excess of five percent (5%) by weight in the Town of Jonesborough. The mayor shall be the chairman and the town recorder shall be the secretary of said board. A majority of the board shall constitute a quorum for any purpose. Matters before the board will be decided by a majority present if a quorum is constituted.

The secretary of the board shall keep a record of all the proceedings of the board, which shall be a public record and shall contain at least the following:

(1) The date of each meeting.

(2) The names of the board members present and absent.

(3) The names of the members introducing and seconding motions and resolutions, etc., before the board.

(4) A copy of each such motion or resolution presented.

(5) The vote of each member thereon.

(6) The provisions of each beer permit issued by the board.

The recorder shall further keep on file in his or her office all original applications and a duplicate of each permit issued. The board shall be empowered to employ a court reporter or person of equivalent ability whenever necessary in any hearing before it. The power, right, and authority are hereby conferred upon said board to arrange for and prescribe the details and form of the necessary applications, permits, and other matters incident to carrying out the provisions of this chapter.

The board shall meet upon call of the chairman of the board to transact such business as may properly come before it. The board may adjourn a meeting at any time to another time and place. All meetings of the board shall be open to the public.

The board shall perform such other duties and have such other power and authority provided by statute and this chapter. [as replaced by Ord. #2002-18, Dec. 2002]

2-202. Authorization of beer businesses. Pursuant to Tennessee Code Annotated, §§ 57-5-202, et seq., it shall be lawful in the Town of Jonesborough to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content of not more than five percent (5%) by weight, and/or any other beverage of like alcoholic content, subject to the provisions of this chapter and the privilege taxes provided in this code; provided, however, it shall be unlawful for any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit to sell, store, dispense, serve, distribute, and/or manufacture any of the said beverages regulated by this chapter within the Town of Jonesborough without having first obtained a duly issued permit and license to do so in the manner prescribed in this chapter. The term "beer" as used in this chapter shall mean and include all beers, ales, and

other malt liquors, including "wine coolers," having alcoholic content of not more than five percent (5%) by weight.

All 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. 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 or her permit. It shall likewise be unlawful for the permit holder not to comply with any and all express restrictions or conditions which may be written into his or her permit by the beer board. [as replaced by Ord. #2002-18, Dec. 2002]

2-203. Locations of beer businesses. No beer permit shall be granted for any location where there may be, in the opinion of the beer board, an adverse effect in consideration of the type and character of the neighborhood, the population density of the neighborhood, the proximity of residences, schools, parks, and playgrounds, the proximity of churches or other religious establishments, any problem with law enforcement in the area, and such other factors which affect the public health, safety, or welfare. [as replaced by Ord. #2002-18, Dec. 2002]

2-204. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) by weight within the corporate limits of Jonesborough, Tennessee between the hours of 12:00 A..M., and 6:00 A.M. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, and between the hours of 12:00 A.M. and 12:00 P.M. on Sunday, nor between the hours of 12:00 A.M. Sunday and the following Monday at 6:00 A.M. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other beverages with an alcoholic content not exceeding five percent (5%) of weight is sold within the corporate limits of Jonesborough, Tennessee in either bottle, glass or other container after 12:15 A.M. [as replaced by Ord. #2002-18, Dec. 2002]

2-205. Playing of pool or billards prohibited where beer is sold or otherwise dispensed. None of the beverages regulated by this chapter shall be sold, given away, served, or otherwise dispensed or consumed within a room or place used to carry on the business of playing of pool or billiards, nor in any room or place with a direct entrance to any such rooms or places used for the playing of pool or billiards. [as replaced by Ord. #2002-18, Dec. 2002]

2-206. Public consumption of beer prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge nor upon grounds of any cemetery or school, whether public

or private grounds, nor upon the grounds of any church, nor upon any vacant lots without written permission from the owner, except in a permitted outdoor use area associated with a permitted special event or town sponsored activity, or a permitted outdoor use area associated with a restaurant or establishments with a current alcoholic beverage commission permit and town beer permit. (as replaced by Ord. #2002-18, Dec. 2002, amended by Ord. #2009-05, May 2009, and replaced by Ord. #2010-08, June 2010, and Ord. #2012-07, May 2012)

2-207. Beer permits. (1) No permit shall be issued except upon application in writing of the owner or owners of the business made to the Jonesborough Beer Board, which application shall be sworn to by the applicants and verified by the affidavits of two (2) reputable citizens of the State of Tennessee who are acquainted with the applicants. Each applicant must be a person of good moral character and certify that he or she has read and is familiar with the provisions of this chapter. All applications shall be made upon a regular form provided for that purpose, and shall be filed with the secretary of the board. In no event shall a permit be issued without the written approval of the application therefor by a majority of the board.

Prior to consideration of an application, the Town of Jonesborough shall collect an applicant fee of two hundred fifty dollars ($250.00) in the form of a cashier's check payable to the Town of Jonesborough in accordance with Tennessee Code Annotated, § 57-5-204.

(2) Each beer licensee must receive a permit for each employee of his place of business and must file an application with the board or its authorized representative showing that all of the laws with reference to a person serving alcoholic beverages have been complied with.

(3) All applications for any permits required hereunder shall be verified by oath or affidavit and shall establish the following:

(a) That neither the applicant nor any person or persons employed by him or her in such distribution or sale has been convicted of any violation of the statutes of the State of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors or any other crime involving moral turpitude in the past ten (10) years.

(b) That no sale shall be made to persons under twenty-one (21) years of age, nor shall minors be employed directly in the sale or distribution of such beverages.

(c) That no minor shall be allowed to loiter about the applicant's premises.

(d) That no sale shall be made to persons intoxicated or who are feeble-minded, insane or otherwise mentally incapacitated.

(e) That the applicant is of good character and has a sufficient legal interest in a suitable location as to entitle the applicant to conduct the sale of beer at such place of business.

(f) That, in the place of business where such beverages will be sold or distributed, no loud, unusual or obnoxious noises shall be allowed,

and the applicant shall conduct such place of business otherwise in an orderly, peaceful, and lawful manner.

(g) That no sale or distribution of such beverages shall be made at a place where such sale or distribution will cause congestion of traffic or interference of schools, churches, or other places of public gathering, or will otherwise interfere with public health, safety and morals.

(h) That, in the place of business where such beverages will be sold or distributed, the consumption of any beverages with an alcoholic content of more than five percent (5%) by weight shall not be allowed, except in places that hold valid licenses for the sale of alcoholic beverages by the drink, as issued by the Alcoholic Beverage Commission of the State of Tennessee.

(i) That, in the place of business where such beverages are sold for consumption on premises, proper sanitary facilities for both sexes shall be provided.

(j) That gambling in any form shall not be permitted on the premises.

(k) That the person so applying will conduct the business in person, or if he or she is acting as agent for any other person, firm, corporation or association, the name or names of the owners of such business, together with their addresses and the nature of the firm, corporation or association for whom the applicant is acting.

(4) Permits shall be issued for an indefinite period of time except that the Jonesborough Beer Board may issue a permit for a shorter or probationary period if, in its discretion, it deems such action proper and reasonable under the circumstances.

(5) (a) There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 2003, and on each successive January 1, to the Town of Jonesborough, Tennessee. A penalty of ten dollars ($10.00) will be assessed on the second working day following January 1 and on each successive working day until the privilege tax is paid. 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, all as provided in Tennessee Code Annotated, § 57-5-104.

(b) Inspection fee. Pursuant to Tennessee Code Annotated, § 57-3-501, an inspection fee of five percent (5%) is hereby levied on the sale of beer products sold to licensed retailers within the corporate limits of the Town of Jonesborough. Wholesale beer distributors selling beer products to retailers in Jonesborough shall collect the inspection fee from the retailer, and the fee can be collected at the time of the sale or when

the retailer makes payment for the delivery of the alcoholic beverages. Wholesalers shall make monthly reports to the town, and the reports shall contain a list of the beer products sold to any retailer, the wholesale price of the beverage sold, the amount of tax due, and any other information required by the town recorder. The inspection fee tax shall be paid and the report submitted by the twentieth of the month following the month the sales were made. Failure to submit a timely report will result in a ten percent (10%) penalty as authorized by Tennessee Code Annotated, § 57-3-503.

(6) No permit now enforced or hereinafter issued shall be good or valid except at the location described on the face of the permit, or in the event no premises is designated on the permit the location described in the application upon which it is based except as provided in §§ 2-223, 2-224, and 2-225, entitled "Classes on-premises permits." No permit now enforced or hereinafter issued shall be transferable.

(7) The applicant or a representative may be required to appear in person before the board and subject himself or herself to examination upon any and all questions appertaining to his or her qualifications under this chapter and amendments thereto.

(8) No permit may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership in the establishment has been convicted within ten (10) years prior to the application for a permit hereunder of a violation of the laws governing the sale or manufacture of alcoholic beverages or of any felony, or has had a beer permit revoked or suspended within the past ten (10) years.

(9) Every permit and license issued pursuant to this chapter shall be displayed in a conspicuous place framed under glass and placed so it can be easily read in the place of business named and described in the permit.

(10) No permit or license shall be issued pursuant to this chapter unless the applicant establishes to the satisfaction of the beer board that he or she has obtained all permits and paid all required fees and privilege taxes, and has met all other requirements of the laws of the State of Tennessee and the United States. No permit or license shall be granted unless or until the party desiring the same shall have filed with the county court clerk the bond provided for in Tennessee Code Annotated, §§ 57-5-106 and 57-5-107.

(11) The holder of a permit issued pursuant to this chapter desiring to voluntarily surrender the permit shall tender said permit to the Jonesborough Beer Board. The board shall take such action upon the offer to surrender as it may determine necessary and advisable under the circumstances, and it shall have absolute authority to refuse to accept the surrender of any permit.

(12) A majority of the full board shall consider all applications filed under this chapter and grant or refuse the license according to its best judgment under all of the facts and circumstances, and the action of the majority of the full board in granting or refusing a license shall be final, except as same is subject to review by law.

In the consideration of the applications, the beer board shall take into consideration the type and character of the neighborhood; the population density in the area; present and future traffic conditions in the location and in the neighborhood; the proximity of schools, parks and playgrounds; the proximity of churches or other religious establishments; any problems of law enforcement in the area; and other such factors as are brought to the attention of the board which will affect the public health and welfare.

(13) Any person, firm or corporation holding a permit under this chapter who proposes to transfer the business operated under the permit to any other person, firm or corporation with the intention or the expectation that the buyer will engage in the business of selling beer at the same location shall be required to notify the beer board of such intention to transfer the business.

The board shall be furnished with the name of the proposed buyer, who shall be required to make application for a permit to the board. Such application shall conform to the requirements for other applications for permits as set out in this chapter.

In the event a proposed buyer acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer obtains a regular beer permit, the buyer may obtain a temporary permit from the town recorder upon the determination of the town recorder that the buyer is about to comply with this chapter. Such temporary permit shall be valid only until the first meeting of the beer board is held after the issuance of said temporary permit and in no event shall such temporary permit be valid more than ninety (90) days from the date of issuance. The holder of a temporary permit shall be subject to all restrictions and penalties provided for regular permit holders by this chapter. Temporary permits shall not be issued except for premises for which the beer permit has been issued to another owner or operator at the time application is made for such temporary permit.

(14) Any permit, excluding temporary permits, issued for the sale of beer under this chapter shall remain in full force and effect for a period of one (1) year from the date of issuance, expiring at 12:00 A.M.. In the event a holder of a permit shall cease to operate his business for which said permit was issued, the permit shall become invalid and void at 12:00 A.M. of the date on which the holder ceases to operate the business. Said licensee shall, within five (5) days thereafter, surrender said permit to the town recorder.

Renewal of a permit upon the expiration of same shall be done likewise in accordance with the provisions of this chapter. (as replaced by Ord. #93-08, Oct. 1993, and Ord. #2002-18, Dec. 2002, and amended by Ord. #2003-10, June 2003, Ord. #2009-05, May 2009, and Ord. #2020-03, March 2020 ***Ch13_03-08-21***)

2-208. Permits for retail sale; types designated. Permits for the retail sale of beer shall be of two (2) types:

(1) On-premises permits. On-premises permits shall be issued for the consumption of beer on the premises in accordance with the provisions of this chapter.

(2) Off-premises permits. Off-premises permits shall be issued for the sale of beer only for consumption off the business premises in accordance with the provisions of this chapter. [as replaced by Ord. #2002-18, Dec. 2002]

2-209. Restrictions upon issuance of on-premises beer permits. Permits for the on-premises sale of beer shall be issued according to the following limitations:

(1) Any applicant for an on-premise beer permit must first obtain, and show satisfactory proof to the board that he or she has obtained a license to serve mixed beverages pursuant to title 2, chapter 1 of this code and the provisions of the Tennessee Code Annotated referenced therein except for a beer permit issued as an on-premises special event beer permit.

(2) Annual sales of all alcoholic beverages as defined in this chapter and in the chapter 1 of title 2 of the municipal code shall not exceed twenty-five (25%) of total taxable sales for any on-premises beer permit holder. In the application of this section, "total taxable sales" shall be defined as those food and non-alcoholic beverage sales subject to state and local sales tax. It shall be a violation of this section if the beer sales exceed the twenty-five (25%) limit in two (2) consecutive months or three (3) months in any calendar year.

(3) A special occasion on-premises beer permit may be issued in conjunction with a special event/special occasion outdoor use permit associated with a permitted special event or town sponsored activity of a short-term nature in which the outdoor use application details the conditions in which on-premise beer is sold and controlled and these conditions are approved as part of the permit application by the board of mayor and aldermen. (Ord. of May 8, 1989, as replaced by Ord. #2002-18, Dec. 2002, and amended by Ord. #2012-07, May 2012, and Ord. #2018-13, Dec. 2018 ***Ch13_03-08-21***)

2-210. Restrictions on financial interests of beer permit holders. No brewer, wholesaler, or manufacturer of any of the beverages regulated by this chapter, nor any agent or agents of such brewer, wholesaler, or manufacturer shall be permitted to make any loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of such beverages, or in the premises occupied by any such retailer. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall, while so doing, convey or grant or contract to convey or grant any interest in the business located at the place named in said permit, or any interest in the premises or any property therein, to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer,

wholesaler, or manufacturer of the beverages regulated by this chapter, except for the purchase of said beverages. No permit or license shall be granted under this chapter to any applicant who, at the time of making application, is indebted or financially obligated to any such brewer, wholesaler, or manufacturer, except for the purchase of said beverages in the case of applicants seeking renewal of permits. [as replaced by Ord. #2002-18, Dec. 2002]

2-211. Restrictions upon issuance of off-premises beer permits. Permits for the off-premises sale of beer shall be issued according to the following classes and limitations, except that this provision shall not be applicable to the renewal of any permit existing and outstanding as of December 2, 2002 (the date this section was replaced):

(1) Off-premises where beer is sold at a grocery (food store). "Grocery" shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. Beer shall not be sold for consumption on the premises of grocery stores. There shall be no limitation on the number of beer permits issued to grocery stores.

(2) Off-premises where beer is sold at a convenience store or market. "Convenience store or market" shall mean a business establishment whose business is the retail sale of gasoline and petroleum products and food merchandise, household supplies and sundries. Beer shall not be sold for consumption on premises of convenience stores or markets; however, sampling of draft craft beers can take place on premises at a convenience store or market under the following conditions.

(a) Permit for craft beer sampling. A permit is hereby established that will allow the sampling of "craft" beers at convenience stores or markets that have off-premises retail sale beer permits. An application fee of one hundred dollars ($100.00) is hereby established for a craft sampling permit that is non-refundable, and an annual privilege tax of one hundred dollars ($100.00) is required to renew the permit. The application form must be completed, and documentation provided to show how sampling procedures meet requirements established in this chapter. Applications will be reviewed and if acceptable, approved by the beer board.

(b) Definition. A craft brewer has an annual production six million (6,000,000) barrels of beer or less, twenty-five percent (25%) or less of its ownership or control is by an alcoholic beverage industry member that is not itself a craft brewer, and a brewer whose product is derived from traditional or innovative brewing ingredients and their fermentation, and not flavored malt beverages.

(c) Draft beer sampling for off-premises sales under certain conditions. Limited sampling of draft craft beer products may take place at convenience stores or markets that have an off-premises beer permit, under the following conditions:

(i) Samples are free.

(ii) Samples are no more than two (2) ounces served in no more than a five (5) ounce cup.

(iii) No more than three (3) two (2) ounce samples shall be provided per customer during a twenty-four (24) hour period.

(iv) Every customer requesting samples shall be "carded," providing photo identification with birth date to ensure customer is at least twenty-one (21) years of age.

(v) A sampling log shall be kept at the craft beer sales area in which the customer name is written from the source of identification along with the day and time sample is provided.

(vi) Sampling shall only be available Monday through Saturday from 10:00 A.M. until 10:00 P.M., and on Sundays from 12:00 P.M. to 10:00 P.M.

(vii) All samples shall be consumed on premises within fifteen feet (15') of the dispenser. No sample may be consumed out of the close eyesight of the server. There shall be a counter shielding the area between the customer and the server dispensing the sample and the draft craft beers.

(viii) A server providing samples shall have an active Alcoholic Beverage Commission (ABC) server's license as specified in § 2-227 of this chapter.

(d) Sampling procedures will be reviewed and approved by the Jonesborough Police Department before the permitted convenience store or market may begin providing samples.

(e) Violations of this chapter may result in actions specified in §§ 2-215, 2-216 and 2-217 of this chapter.

(3) Off-premises where beer is sold at a drug store. "Drug store" shall mean a business establishment whose primary business is the retail sale of pharmaceuticals, food merchandise, household items, and sundries. Beer shall not be sold for consumption on the premises of drug stores. There shall be no limitation on the number of beer permits issued to drug stores.

(4) Off-premises where beer is sold on the premises of a permitted manufacturer. "Permitted manufacturer" shall mean a business establishment who has been granted a manufacturing permit under this chapter. Beer shall not be sold for consumption on the premises of permitted manufacturing facilities without a manufacturers on-premises permit as provided for in this chapter. There shall be no limitation on the number of beer permits issued to manufacturing facilities. Retail sales of beer for off-premises consumption must be labeled in accordance with the requirements of the Federal Bureau of Alcohol, Tobacco and Firearms and must meet all other state and local regulations regarding off-premises sales. Retail sales of beer for off-premises consumption must take place within the same premises where the product is manufactured. The requirements of Tennessee Code Annotated, § 75-5-101, as currently in effect are hereby adopted as if set out herein. Applications for permits under this section must be presented to the planning commission for a

site plan approval prior to the beer board's consideration of the application. [Ord. of March 13, 1973, as replaced by Ord. #2002-18, Dec. 2002, and amended by Ord. #2006-05, July 2006, Ord. #2010-01, March 2010, and Ord. #2015-01, March 2015 ***Ch12_04-09-18***]

2-212. Selling or otherwise dispensing beer to persons in motor vehicles prohibited. The beverages regulated by this chapter shall not be sold, given away, served, or otherwise dispensed to persons in automobiles or other motor vehicles except where beverages are sold in package form for consumption off the premises and such beverages shall not be consumed on the premises where sold. [Ord. of March 13, 1973, as replaced by Ord. #2002-18, Dec. 2002]

2-213. Restrictions pertaining to minors. Except as authorized by state laws, no sales, gifts, or distribution of such beverages shall be made or permitted to be made to persons under twenty-one (21) years of age (hereinafter referred to as "minors"); nor shall any minor be employed or used or permitted to be employed or used for or in the sale or distribution or other handling of such beverages where on-premises consumption of such beverages is permitted; nor shall any minor be permitted or allowed to drink beer or other beverages of like alcoholic content in any establishment or place of business or premises where a permit issued pursuant to this chapter is exercised. Every person to whom a permit is issued under this chapter shall require any and every employee as to whose majority there is any possible question or doubt to present and leave with him or her a copy of such employee's birth certificate. Minors shall not be permitted to load or loiter in any place where the beverages regulated by this chapter are sold. The burden of ascertaining the age of minor customers shall be upon the holder of the permit. [as replaced by Ord. #2002-18, Dec. 2002]

2-214. Restrictions pertaining to intoxicated persons. None of the beverages regulated by this chapter shall be sold or given away or otherwise dispensed or served to any person in a drunken condition; nor shall any person in such condition be permitted or allowed to consume any such beverages upon or in any premises or place of business where such beverages are sold, dispensed, served, or distributed. No person holding a permit under and dealing in or handling the beverages regulated by this chapter shall permit or allow upon his or her premises or in his or her place of business any person who is under the influence of any intoxicant whatsoever. It shall be the duty of any person holding a permit under and dealing in and handling the beverages regulated by this chapter to promptly notify police officers when any person under the influence of any intoxicant whatsoever enters the premises or place of business of the person holding such permit.

No owner, co-owner, operator, proprietor, employee or servant of a place of business holding and/or exercising a permit issued pursuant to this chapter shall drink or be under the influence of any of the beverages regulated by this

chapter or any other intoxicant while in or working at any such place of business or while upon any such premises. [1982 Code, § 2-203, as amended by Ord. of April 10, 1984, and replaced by Ord. #2002-18, Dec. 2002]

2-215. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited. It shall be unlawful for any person, firm, co-partnership, corporation, syndicate, joint stock company, association or other group operating as a unit, who or which holds and/or exercises a distributor's or wholesaler's permit under this chapter, to sell, give away, deliver, or distribute any of the beverages regulated by this chapter to any person, firm, co-partnership, corporation, syndicate, club, joint stock company, association, or other group operating as a unit, in the Town of Jonesborough, who or which does not hold a valid retailer's permit issued pursuant to this chapter, or to permit or allow any agent or employee to do so; provided, further, that it shall also be unlawful for any such distributor or wholesaler knowingly to sell, give away, deliver, or distribute such beverages to any such retailer who has violated or is violating any of the provisions of this chapter, or to permit or allow any agent or employee to do so. [as replaced by Ord. #2002-18, Dec. 2002]

2-216. Suspension or revocation of beer permits. The Jonesborough Beer Board is hereby empowered and directed, whenever from facts and evidence presented to it at a public hearing hereinafter provided for it is of the opinion that such action is justified in the public interest, to suspend or revoke any permit or license issued pursuant to this chapter to any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or group operating as a unit, who:

(1) Makes any material representation or false statement in the application upon which the permit is based or fails to keep and maintain as true any promise or fact set forth in said application.

(2) Violates any of the provisions of this chapter.

(3) Is convicted of any violation of the laws of the United States or of the State of Tennessee or of the ordinances of any town prohibiting the manufacture, sale, possession, storage or transportation of intoxicating liquors of alcoholic content of more than five percent (5%) by weight.

(4) Knowingly permits or allows, or negligently fails to prevent, the violation of any of the aforesaid laws or ordinances against said intoxicating liquors upon any premises occupied or owned by or under the control of the licensee.

Upon any complaint being made to the said board by a board member, the public safety director, or one (1) or more reputable citizens that any of the acts above-mentioned in this section has been committed or any other provision of this chapter has been or is being violated by a person holding and/or exercising a permit issued pursuant to this chapter, or when said board has knowledge of

any such act or violation, the holder of said permit shall be notified in writing by the secretary of the board and afforded an opportunity for a hearing before the board. Said notice shall be mailed at least five (5) days before the hearing to the address shown upon the application for a permit, shall state the nature of the complaint or violation, and shall direct the holder of said permit to appear before the board at a time and place specified and show cause, if any he or she has, why the holder's permit should not be revoked. The hearing shall be broad in character, and evidence may be heard upon any facts or circumstances pertinent to or applicable to the violation charged. The reputation or character of the place and of the holder of the permit complained of shall be material and competent evidence for the consideration of the board at such hearing.

Whenever complaint is made charging that false statements or misrepresentations have been made in any application for a permit under this chapter, the burden of proof shall be upon the holder of the permit to establish the truth of the statement charged to be false; provided, that no formal complaint shall be necessary or required whenever the falsity of such statement or representation, or the commission of any of the acts above-mentioned in this section, or the violation of any other provision of this chapter, may be made to appear by the records of any court of competent jurisdiction; and in such case, such records or duly certified copies thereof shall be conclusive evidence of the falsity or misrepresentation or of the commission of said act or of said violation.

Provided, further, that no person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit, whose permit and license are revoked by said board shall be eligible to make application for or be granted another permit under this chapter for a period of ten (10) years from the date said revocation becomes final.

Provided, further, that when a permit and license are revoked by said board pursuant to this chapter no new permit or license shall be issued for the same premises until the expiration of one (1) year from the date said revocation becomes final.

The secretary shall notify the Washington County Beer Committee of the revocation of any permit under this chapter. [as added by Ord. #93-03, Oct. 1993, and replaced by Ord. #2002-18, Dec. 2002]

2-217. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars ($1,500.00) for each offense or 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. 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. [as added by Ord. #93-08, Oct. 1993, and replaced by Ord. #2002-18, Dec. 2002]

2-218. Inspection of beer businesses. The police officers of the Town of Jonesborough shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, transported, or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the Town of Jonesborough for any law violations. [as added by Ord. #2002-18, Dec. 2002]

2-219. Prior permit holders. Any person, firm, corporation, or legal entity heretofore issued a permit for the sale of beer by the Town of Jonesborough, and conducting sales under such permit on the effective date of this chapter shall, in order to continue such sales, be required to apply for a permit for the sale of beer within the municipality under the provisions of this chapter at the regular renewal date of their present permit. [as added by Ord. #2002-18, Dec. 2002]

2-220. Information to be kept on file with or available to the town recorder. (1) Each holder of a beer permit shall continuously maintain in this town:

(a) A registered office which may be the same as the permitted place of business. Notice shall be provided to the town recorder of any change in the registered office.

(b) A registered agent, who shall be an individual who resides in Washington County and whose business office is identical with the registered office. Notice shall be provided to the town recorder of any change in the registered agent.

(c) All documentation on file with the town recorder required to be provided to, and on the forms provided by the town recorder to assure compliance with the provisions of this chapter.

(2) Each holder of a beer permit shall maintain and make available to the town recorder on request all records required to be maintained by the Tennessee Alcoholic Beverage Commission for Alcoholic Beverages under chapter 1 of this title and the same documentation with respect to alcoholic beverages under this chapter for a period of three (3) years. It is the duty of the permit holder to maintain any additional records necessary to establish compliance with this chapter for a minimum of three (3) years and to make such documentation available to the town recorder upon request. [as added by Ord. #2002-18, Dec. 2002]

2-221. Severability. That the various paragraphs, clauses and subdivisions of this chapter are intended and declared to be severable. In the event any of the provisions of this chapter are adjudged to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, the

remainder of the chapter shall remain in effect. [as added by Ord. #2002-18, Dec. 2002]

2-222. Classes on-premises permits. On-premises permits for the retail sale of beer shall be of three (3) types:

(1) On-premises permits. An on-premises permit, with no further designation, shall be issued for the consumption of beer on the premises as shown on the face of the permit and at no other location in accordance with the provisions in this chapter.

(2) Catering permit. Catering permits shall be issued for the consumption of beer on any premises within the Town of Jonesborough, meeting all requirements of this chapter and the remainder of the code of the Town of Jonesborough, Tennessee, for which a caterer as defined under this chapter, on an annual basis.

(3) Special events permit. Special events permits shall be issued for the consumption of beer on the premises specified on the permit in accordance with the provisions of this chapter, as a contract for a single event.

(4) Manufacturer's tasting room permit. A manufacturer's tasting room permit shall be issued for the consumption of beer on the premises specified in the manufacturing permit and at no other location, subject to and in accordance with all other provisions of this chapter.

(5) Special event beer permit. A beer permit is available to small restaurant operations meeting certain conditions that does not require an associated Alcoholic Beverage Commission Liquor-by-the-Drink license. (as added by Ord. #2003-10, June 2003, and amended by Ord. #2010-01, March 2010, and Ord. #2018-13, Dec. 2018 ***Ch13_03-08-21***)

2-223. Catering permits. A catering permit may only be issued to a caterer as defined in Tennessee Code Annotated, § 57-4-102(27). Furthermore, the applicant must be licensed as a caterer under Tennessee Code Annotated, chapter 4, title 57, and must provide proof to the satisfaction of the board that he or she has obtained a license to serve mixed beverages as a caterer under the provisions of that chapter.

(1) The provisions of § 2-209(2) of this code, regarding annual sales of alcoholic beverages shall apply to caterers under this section.

(2) An applicant for a catering permit that holds a current and valid on-premises permit under § 2-223 will not be required to pay an additional application fee. Applicants approved for an on-premises catering beer license will be subject to the one hundred dollar ($100.00) privilege tax paid annually under the requirements established in § 2-207(5).

(3) It shall be a violation of this section if beer sales by any caterer take place on any premises where sale of beer is prohibited or any premises as described in § 2-206 where public consumption of beer is prohibited.

(4) It shall be a violation of this section if any beer sales by any caterer take place outside the hours and days of sales authorized in § 2-204 of this code. (as added by Ord. #2003-10, June 2003)

2-224. Special events permit. A special events permit may be issued to entities qualifying for a special events permit under Tennessee Code Annotated, chapter 4, title 57. The entity must provide proof sufficient to the Recorder of the Town of Jonesborough that they have obtained a special event permit from the Tennessee Alcoholic Beverage Commission for a special event. The recorder may issue a permit for the on-premise sale of beer for the location and on the dates approved in the state permit for the sale of alcoholic beverages upon submission of an application to his/her office and a special event fee of fifty dollars ($50.00) per twenty-four (24) hour period of the special event. For the purpose of this provision, the board adopts all requirements of the Tennessee Alcoholic Beverage Commission with respect to special event permits and the recorder shall obtain a written statement from the applicant that they are familiar with those requirements and agree to abide by them in the on-premises sale of beer under the special events permit. (as added by Ord. #2003-10, June 2003)

2-225. Manufacturer's tasting room permit. A manufacturer's tasting room permit may only be issued to a holder of a manufacturing permit under this chapter who produces more than one hundred (100) barrels annually for wholesale sales, and continues to be in compliance with Jonesborough requirements for a beer manufacturer as well as all state and federal permitting requirements. Sales must only be for products produced by the manufacturer and available in the "tasting room" within the manufacturing facility, and shall comply with the hours and days of sale established in § 2-204. A manufacturer's tasting room permit for on-premises sales is exempt from the provision established in § 2-209, but must comply with the server's requirements established in § 2-227. This permit is a separate permit from a manufacturing permit and must be applied for as such. The issuance of this permit is subject to the applicant meeting all other local, state, and federal requirements. (as added by Ord. #2003-10, June 2003, and replaced by Ord. #2010-01, March 2010, and Ord. #2019-08, Aug. 2019 ***Ch13_03-08-21***)

2-226. Special event beer permit. An on-premises beer permit may be issued to a restaurant that does not have the customer seating capacity necessary to obtain one (1) of the liquor-by-the-drink permits form the Tennessee Alcoholic Beverage Commission (ABC). This beer only permit may be issued if the restaurant , defined as a commercial business open to the public on a regular schedule that serves meals/food throughout its operating hours, meeting the following criteria:

(1) The establishment cannot obtain an ABC Liquor-by-the-Drink license because it does not meet the minimum number of customer seats or some other building expectation required by the ABC to obtain a liquor-by-the-drink license. The inability to obtain an ABC Liquor-by-the-Drink licensed must be based on a reasonable space limitation within the building layout, and not that the business owner does not want to use the space that is readily available. The restaurant owner must submit justification that the area needed to obtain the minimum seating for an ABC Liquor-by-the-Drink license is not available, and that justification is then found reasonable by the Jonesborough Beer Board.

(2) The percentage of meal sales in relationship to average sale of on-premises beer must meet the requirement established in § 2-209. The determination of food sales is based on meals that are served, and any components considered as part of a meal.

(3) The restaurant must have the necessary sanitary kitchen and dining room equipment to adequately serve meals to its customers, and it must have the sufficient number and kind of employees to prepare, cook and serve suitable meals.

(4) Any server of beer must have the same license or permit required to serve alcoholic beverages by the Tennessee Alcoholic Beverage Commission.

(5) Any consumption of beer on public right-of-way must meet the outdoor use permit requirement of the town.

(6) At any point the restaurant establishment can reasonably obtain an ABC Liquor-by-the-Drink license of some sort, the beer board upon determining the area is available to obtain a liquor-by-the-drink license from the ABC may terminate or declare a date of termination of the on-premises beer permit until an ABC Liquor-by-the-Drink license for the restaurant is obtained.

(7) The applicant for an on-premises special event beer permit must meet the beer permit requirements as established in § 2-207.

(8) A restaurant issued a special event beer permit for on-premises consumption is limited to twelve (12) special events per calendar year in which beer can be served with the following conditions:

(a) All limitations established in this section apply.

(b) The dates of up to twelve (12) special events in which on-premises beer may be served are listed in an attachment and submitted with the application for a special event beer permit. The listing of up to twelve (12) special event shall be submitted with each subsequent annual permit renewal application.

(c) Due to the possible changing and additions of events and activities, a restaurant with a special event beer permit may submit to the chief of police or his/her designee up to six (6) changes per calendar year in the special events designated for beer sales or add dates previously undesigned to the initial listing submitted with the permit application. Changes or additions to the special event listing must be

submitted to the chief of police a minimum of thirty (30) days in advance of the special event to be held in the restaurant, and must receive the approval of the chief of police.

(d) Special events in which on-premises beer sales are allowed must be within a forty-eight (48) hour period for each event. (as added by Ord. #2018-13, Dec. 2018 ***Ch13_03-08-21***)

2-227. Servers must have license. The staff serving or dispensing beer for establishments and organizations, including those organizations receiving a special event beer permit, duly licensed by the Town of Jonesborough for on-premises sale and/or consumption of beer, shall be required to obtain and maintain the same license or permit required by the State of Tennessee Alcoholic Beverage Commission for serving alcoholic beverages as defined in title 2, chapter 1, § 2-101. (as added by Ord. #2010-01, March 2010)

2-228. Violations and fines. Each sale or distribution of beer in violation of the provisions of this chapter shall constitute a separate offense on the part of each and all persons, firms, corporations or other legal entity participating therein.

Any violation of the provisions of this chapter shall be a misdemeanor and shall be punishable under the general penalty clause of this code. [as added by Ord. #2002-18, Dec. 2002]

TITLE 3

ANIMALS AND FOWLS

CHAPTER
1. IN GENERAL.
2. [DELETED.]
3. ANIMAL CONTROL.

CHAPTER 1

IN GENERAL

SECTION
3-101. Running at large prohibited.
3-102. Hog pens.
3-103. Pen or enclosure to be kept clean.
3-103A. Pens, coops, stalls, stables, barns, etc. must be permitted.
3-104. Adequate food, water, and shelter, etc., to be provided.
3-105. Keeping in such manner as to become a nuisance prohibited.
3-106. Cruel treatment prohibited.
3-107. Inspections of premises.
3-108. Running animals on streets.
3-109. Leaving teams on streets, etc.
3-110. Animals on sidewalks.
3-111. Exhibiting animals on streets, etc.
3-112. Keeping noisy calves overnight for sale, etc.
3-113. Chickens, roosters restricted.

3-101. 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. [Ords. 25, § 1; 28, § 1; and 32, § 1; all dated April, 16, 1906, modified]

3-102. Hog pens. It shall be unlawful within the city limits to erect, keep or maintain any hog pen or place wherein hogs are kept, penned, or confined except under the following conditions:

(1) The hog pen or enclosure must be within an R-1 zone.

(2) No part of the hog enclosure, including fencing, may be within two hundred feet (200') of the property line, and must be located behind the primary structure on the property and away from the street.

(3) There must be a minimum of five (5) acres of property on which the hog pen is located.

(4) The housing and feeding area must have a concrete base.

(5) The hog pen and enclosure must be permitted by the Jonesborough Building Inspector, and must meet the criteria established in § 3-103A of this chapter. (Ord. of Jan. 2, 1911, as replaced by Ord. #2014-01, Feb. 2014)

3-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition so that it will create no stench or cause annoyance or discomfort to the people of the town. [Ord. of Jan. 2, 1911, § 2, modified]

3-103A. Pens, coops, stalls. stables, barns, etc. must be permitted. The location and construction of pens, coops, stalls, stables, barns, corrals, etc. must be permitted by the Jonesborough Building Inspector. The building inspector shall consider proper drainage; the adequate construction and safety of any enclosure; the proper protection of animals housed; the accessibility and water source to provide proper maintenance, care and cleanliness; manure storage and disposal; as well as provisions for fly, rodent and odor control when making the determination to issue a permit. The building inspector has the authority to deny a permit if it is determined to be necessary to protect the health and safety of the general public. (as added by Ord. #2014-01, Feb. 2014)

3-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. [Code of 1982]

3-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason.
[Code of 1982]

3-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. [Ord. 11 of April 16, 1906, § 1, modified]

3-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this chapter, 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. [Code of 1982]

3-108. Running animals on streets. It shall be unlawful for any person to ride or drive any beast of burden in any highway, thoroughfare, or other public place beyond a moderate gate unless in case of urgent necessity, or to ride or drive any such animal so as to cause such animal or any vehicle thereto attached to come in contact or collision with or strike any other animal standing in any public place. [Ord. 11 of April 16, 1906, § 1]

3-109. Leaving teams on streets, etc. It shall be unlawful for any person to leave standing, without some competent person in charge, his team of horses or vehicle with a horse or horses attached thereto upon any of the streets or alleys of the town or at any time to leave same upon any of the foot crossings on said streets made for the benefit of foot passengers. [Ord. 12 of April 16, 1906, § 1]

3-110. Animals on sidewalks. It shall be unlawful for any person to ride, lead, or drive any horse, mule, or ox on any of the sidewalks of the town, except such places as are used for public crossings, or to get to private property. [Ord. 13 of April 16, 1906, § 1, modified]

3-111. Exhibiting animals on streets, etc. It shall be unlawful for any person to exhibit upon any of the public streets or alleys of the town any stallion, jackass, bull, or boar for the purpose of showing off such animal. [Ord. 10 of April 16, 1906, § 1]

3-112. Keeping noisy calves overnight for sale, etc. It shall be unlawful for any person, firm, or corporation to keep calves or allow them to be kept on his, their, or its premises within the corporate limits overnight for the purpose of sale or shipment in such a way that they will disturb the residents of the town by their noises. This section shall be liberally construed in favor of the right of the town to prohibit the keeping of such calves overnight within the town.

This section shall not apply to persons living within the town who raise or keep their own calves on their own premises during the ordinary course of their residence therein, it being the intention to prohibit calf shippers from bringing calves within the town and keeping them overnight prior to their sale or shipment so that such calves disturb the residents of the town by their noises. The fact that calves are shipped within a reasonable time after being brought within the town shall stand as a presumption that they were brought into the town for the purpose of sale or shipment. [Ord. of July 13, 1921]

3-113. Chickens, roosters restricted. Chickens may not run at-large within the Jonesborough city limits. Chickens housed on property less than two

(2) acres are limited to twelve (12) hens and no roosters. Coops must be permitted as an outbuilding per § 3-103A, and must meet setback requirements. With proper justification showing that adjoining properties would not be adversely impacted, the board of zoning appeals can approve a variance after adequate notification of the meeting date to any adjoining property owner potentially affected. Coops with more than twelve (12) hens on properties larger than two (2) acres must be two hundred feed (200') from the property line. Roosters are allowed on properties two (2) acres or more, in an R-1 Zone, however, no portion of the enclosed area housing the rooster(s) can be closer than two hundred feet (200') from any property line. (as added by Ord. #2014-01, Feb. 2014)

CHAPTER 2

[DELETED]

This chapter was deleted by Ord. #95-08, Sept. 1995.

CHAPTER 3

ANIMAL CONTROL

SECTION

3-301. Definitions.
3-302. Vaccination and registration.
3-303. Dog restraint.
3-304. Nuisance animals.
3-305. Seizure and impoundment.
3-306. In addition to, or in lieu of impoundment.
3-307. Animal care.
3-308. Animals prohibited from soiling public or private property.
3-309. Fines.
3-310. Enforcement.
3-311. Tennessee state code.

3-301. Definitions. As used in the chapter, the following terms mean;

(1) Animal: Any live, vertebrate creature, domestic or wild, other than human.

(2) Animal control officer: Any health officer, police officer, or any other person designated by the mayor and board of aldermen with the responsibility for enforcing the animal control ordinance.

(3) Holding pen: An area designated to house and secure animals that have been picked up in Jonesborough due to violations of the animal control ordinance.

(4) Nuisance animal: Any animal which molests a passersby or passing vehicles; attacks other animals; repeatedly runs at large; damages private or public property; continuously excretes on property not in possession of the animal owner; barks, whines, or howls in an excessive, continuous, or untimely fashion.

(5) Owner: Any person, partner, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for more than five (5) consecutive days.

(6) Registration: Obtaining a numbered identification tag which is indexed with the owner's name, address, telephone and description of animal.

(7) Restraint: An animal that is secured by a leash or lead; under the command control of a responsible person, within the real property limits of its owner, or confined to a vehicle.

(8) Vicious animal: Any animal that constitutes a physical threat to human beings or other animals. [Ord. #91-05, § 1, Oct. 1991]

3-302. Vaccination and registration. (1) Rabies vaccination and registration: It shall be unlawful for any person to own, keep or harbor within

the corporate limits any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provision of the "Tennessee Anti-Rabies Law", section 68-8-101 to 6-8-114, Tennessee Code Annotated.

(2) Apprehension and disposition of rabid animals: All animals which are rabid or suspected of being rabid shall be immediately reported to the police department. Such animals shall be impounded if this can be accomplished safely. Unrestrained, vicious, or rabid animals must be destroyed for the safety of the community. If they cannot be safely impounded, however, every effort should be made not to damage the brain.

(3) Quarantine: Any animal capable of being infected by rabies that bites a person, is suspected of biting a person or is suspected of being infected by rabies shall be quarantined by order of the designated animal control officer or representative for such time as may be deemed necessary, but not less than ten (10) days, to determine if the animal is rabid. Quarantine shall be handled by the owner but under the supervision of a designated animal control officer. If any animal dies while in quarantine, the head of said animal shall be transported to the local health office for pathological examination.

(4) Vaccination clinic: With cooperation of the public health department, the Town of Jonesborough will hold at least one vaccination clinic each year.

(5) Dog and cat registration: The Town of Jonesborough will provide a voluntary dog and cat registration program.

(6) Vaccination required for town registration: No dog or cat shall be registered without the owner producing proof of vaccination for such dog or cat.

(7) Registration period and fee: Registration will be undertaken only once as long as the dog or cat remains with the same owner in Jonesborough. The registration fee will be one dollar ($1.00).

(8) Registration certificate: Upon receipt of the proper registration fee, the animal control officer or representative shall issue a registration certificate to the owner of the animal giving the owners name, date issued, amount paid, the registration tag number issued, the date the animal was vaccinated and the type vaccine used.

(9) Non-transfer of registration tags: No person owning, keeping, or harboring a dog or cat in Jonesborough shall transfer registration tags from one animal to another without re-registering said animals. [Ord. #91-05, § 2, modified, Oct. 1991, as amended by Ord. #95-08, Sept. 1995]

3-303. Dog restraint. (1) Running at large prohibited: It shall be unlawful for the owner of any dog knowingly to allow it to run at large unattended on or about the streets of Jonesborough or on the property of another person without permission of that property owner.

(2) Restraint while off of property: It shall be the duty of the owner or custodian of any dog to keep said animal under control at all times while the

animal is off of the real property limits of the owner or custodian, either by leash or vehicle.

Jonesborough Police K-9 dogs or other such police K-9 dog(s) from some other jurisdiction that is authorized by the Jonesborough Police Department to train on town property may train in town parks and open spaces without leash or vehicle containment provided such K-9 police dogs are with their designated "handlers," and all reasonable measures have been taken to ensure that the general public and other animals properly contained in the area are not endangered from such training activity.

(3) Vicious dogs to be securely restrained: It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined within a building or secure enclosure, or otherwise securely restrained through muzzle or cage as to reasonably provide for the protection of other animals or persons. [Ord. #91-05, § 3, Oct. 1991, as amended by Ord. #2016-05, April 2016 ***Ch12_04-09-18***]

3-304. Nuisance animals. (1) Noisy animals: No person shall own, keep, or harbor any dog, cat, or any other animal which by loud frequent barking, whining, screaming, or howling, annoys or disturbs the peace and quiet of any neighborhood.

(2) Nuisance animals: Owners of nuisance animals, as defined, may be cited for violation of this chapter.

(3) Owners of animals defined as nuisance because they attack other animals, damage private or public property, continuously excrete on property not in possession of the animal owner, or repeatedly run at large shall confine said animal within a building or secure enclosure, or otherwise securely restrain the animal through use of a muzzle or cage as to reasonably provide for the protection of other animals or persons or property. [Ord. #91-05, § 4, Oct. 1991, as amended by Ord. #95-08, Sept. 1995]

3-305. Seizure and impoundment. (1) Seizure: Any animal found or kept in violation of this chapter may be seized by anyone designated by the board of mayor and aldermen to enforce the animal control ordinance.

(2) Impoundment. Seized animals that have Jonesborough Registration tag will be impounded in the town's holding pen for the current impoundment period. Untagged animals may be held at the Jonesborough Holding Pen but at the earliest convenience will be taken to the Washington County Animal Shelter.

(3) Notification. If by a Jonesborough registration tag the owner of a seized animal can be identified, personnel responsible for animal control shall notify by telephone or mail the owner that the animal registered in their name has been impounded.

(4) Impoundment period. Seized animals will be held for at least three (3) full days unless picked up by the owner or their representative.

(5) Reclaiming animals. Owners or their representatives reclaiming their animals will pay a fee of twenty dollars ($20.00) for an untagged dog or cat and ten dollars ($10.00) for city tagged dog or cat which goes for registration and tagging of their dog or cat. The owner is also responsible for any medical costs deemed necessary by the animal control officer.

(6) Owners of unclaimed animals fined. Owners of animals that are left unclaimed will be charged with having an unrestrained animal.

(7) Adoption: Any animal impounded may be adopted after notification if possible has taken place and the three day holding period has elapsed. All adopted animals must be vaccinated. The adoption fee is fifteen dollars ($15.00).

(8) Disposition of unclaimed or non-adopted animals. After the holding period, any animal not adopted or left unclaimed will be sent to the Johnson City/Washington County Animal Shelter. [Ord. #91-05, § 5, Oct. 1991]

3-306. In addition to, or in lieu of impoundment. A citizen or designated representative of the town may cause to be issued to the known owner of an animal found in violation of the animal control ordinance, a citation notifying of ordinance violation and setting a hearing before city court. At the discretion of the animal owner, he may pay before said court date the sum of twenty-five dollars ($25.00) cash bond. In the event such penalty is not paid before the day of the court hearing, trial will be had on a warrant issued on the violation. [Ord. #91-05, § 6, Oct. 1991]

3-307. Animal care. (1) Proper care: No owner shall fail to provide his animals with proper nutritious food, water, proper shelter and protection from the weather, veterinarian care when needed to prevent suffering, and with humane care and treatment.

(2) Poisoning animals: No owner shall expose any known poisonous substance whether mixed with food or not, so that the same shall be liable to be eaten by any animal except when done for rodent control and in a manner preventing consumption by other animals.

(3) Abandonment: No owner of an animal shall abandon such animal.

(4) Animals hit by motor vehicle: Any person who as an operator of a motor vehicle, strikes a domestic animal shall stop at once and render any reasonable assistance, and shall make a reasonable attempt to notify the animal owner. In the event the owner cannot be ascertained and located, the accident shall immediately be reported to the Jonesborough Police Department. [Ord. #91-05, § 7, Oct. 1991]

3-308. Animals prohibited from soiling public or private property.

(1) No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the

members of a homeowners or condominium association or upon private property other than the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

(a) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and

(b) Removal of such bag or container to the property of the animal owner or custodian and deposited thereafter in a manner as otherwise may be permitted by law.

(2) No person owning, harboring or keeping any animal within the town shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian or on the property of others as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner or custodian's property, or to abutting property of owners.

(3) No person owning, harboring, keeping or in charge of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facility. [as added by Ord. #98-06, § 1, May 1998]

3-309. Fines. Any person found to be in violation of this chapter may be fined a minimum of $25.00 and a maximum of $500.00 with each day of violation constituting a separate offense. [Ord. #91-05, § 8, Oct. 1991, as amended by Ord. #95-08, Sept. 1995, and renumbered by Ord. #98-06, § 1, May 1998]

3-310. Enforcement. The provisions of this chapter shall be enforced by those persons designated by the board of mayor and aldermen. It shall be violation of this chapter to interfere with any properly authorized animal control officer in the performance of his or her duties. [Ord. #91-05, § 9, Oct. 1991, as renumbered by Ord. #98-06, § 1, May 1998]

3-311. Tennessee state code. This chapter formally adopts and authorizes enforcement of the Tennessee State Code Animals, sections 39-14-201 through 39-14-210 enacted in 1989. [Ord. #91-05, § 10, Oct. 1991, as renumbered by Ord. #98-06, § 1, May 1998]

TITLE 4

BUILDING, UTILITY, AND HOUSING CODES[1]

CHAPTER
1. BUILDING CODE.
2. DELETED.
3. HOUSING CODE.
4. FAIR HOUSING CODE.
5. NUMBERING OF BUILDINGS.
6. FAIR HOUSING ORDINANCE.

CHAPTER 1

BUILDING CODE[2]

SECTION
4-101. International Building Code (IBC) adopted.
4-102. Modifications.
4-103. Available at town hall.
4-104. Violations and penalty.
4-105. Permit fees.
4-106. Plumbing code.

4-101. International Building Code adopted. Pursuant to authority granted by §§ 6-54-401 through 6-54-404 of the Tennessee Code Annotated, and for the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure or appurtenance connected or attached to any building or structure, the International Building Code[3] - 2012 edition with revisions along with any modifications is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code.

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[1]For related provisions in this code see title 7, "Fire Protection, Fireworks, and Explosives"; title 8, "Health and Sanitation"; title 11, "Planning and Zoning"; title 12, "Streets and Other Public Ways and Places"; and title 13, "Utilities and Services."

[2]The Town of Jonesborough elects exemption from applicability of state wide building construction safety standards in one- and two-family dwellings within its jurisdiction pursuant to Ord. #2017-06, Dec. 2017.

[3]Copies of this code may be obtained from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213. See § 4-103 regarding copies of building code kept in town hall.

(2) The 2012 International Residential Code (IRC) is hereby adopted with any modifications.

(3) The 2012 International Fuel Gas Code (IFGC) is hereby adopted with any modifications.

Authority having jurisdiction to oversee fuel gas inspections is Atmos Energy Corporation.

(4) The 2012 International Mechanical Code (IMC) is hereby adopted with any modifications.

(5) The 2012 International Existing Building Code is hereby adopted.

(6) The 2012 Energy Conservation Code is hereby adopted with any modifications.

(7) The 2010 ADA Standards For Accessible Design are hereby adopted.

(8) The 2012 International Fire Code (IFC) is hereby adopted with any modifications.

(9) Provisions related to the electrical code will be governed and enforced by the State of Tennessee. (Ord. of Oct. 9, 1979, as amended by Ord. #94-12, Oct. 1994, and replaced by Ord. #97-21, Oct. 1997, Ord. #2009-13, Nov. 2009, Ord. #2013-02, March 2013, and Ord. #2016-9, Aug. 2016 ***Ch12_04-09-18***)

4-102. Modifications. (1) The following exceptions shall be adopted in reference to these codes: Whenever the building code refers to the "chief appointing authority" or the "chief administrator", it shall be deemed to be a reference to the Jonesborough Board of Mayor and Aldermen. When the "building official" is named, it shall, for the purposes of the building code mean the town's building inspector or such person(s) as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the building code.

(2) Section R313.1 of the International Residential Code is modified by adding the following exception: An automatic residential fire sprinkler system shall not be required in one (1) and two (2) family dwellings, or in townhomes that have a two (2) hour fire resistance rated wall in between units, if such walls do not contain plumbing and/or mechanical equipment, ducts or vents in the common wall. In addition, delete Automatic Sprinkler Systems in one and two family dwellings in R313.2. (Ord. of Oct. 9, 1979, as amended by Ord. #91-07, Nov. 1991; replaced by Ord. #97-11, June 1997; amended by Ord. #2000-07, June 2000, and Ord. #2007-07, July 2007, replaced by Ord. #2009-13, Nov. 2009, and Ord. #2013-02, March 2013, and amended by Ord. #2016-9, Aug. 2016 ***Ch12_04-09-18***, and Ord. #2018-03, March 2018 ***Ch12_04-09-18***)

4-103. Available at town hall. Pursuant to requirements of the Tennessee Code Annotated, one (1) copy of the International Building Code - 2012 edition and the other associated codes hereby adopted in this ordinance are

to be placed in the administration office at town hall and shall be kept there for the use and inspection of the public. (Ord. of Oct. 9, 1979, as replaced by Ord. #97-21, Oct. 1997, Ord. #2009-13, Nov. 2009, Ord. #2013-02, March 2013, and Ord. #2016-9, Aug. 2016 ***Ch12_04-09-18***)

4-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code or associated codes herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.[1] (Ord. of Oct. 9, 1979, as replaced by Ord. #97-21, Oct. 1997, and Ord. #2009-13, Nov. 2009, amended by Ord. #2010-02, April 2010, and replaced by Ord. #2013-02, March 2013, and Ord. #2016-9, Aug. 2016 ***Ch12_04-09-18***)

4-105. Permit fees. The schedule of permit fees shall be the fees established in the building and associated codes herein adopted, as follows:

SCHEDULE OF PERMIT FEES

BUILDING PERMIT FEES

Total Valuation	Fee
$1,000 and less	No fee, unless inspection required, in which case a $15.00 fee for each inspection shall be charged.
$1,000 to $50,000	$15.00 for the first $1,000.00 plus $5.00 for each additional thousand or fraction thereof, to and including $50,000.00.
$50,000 to $100,000	$260.00 for the first $50,000.00 plus $4.00 for each additional thousand or fraction thereof, to and including $100,000.00.

[1]State law reference
Tennessee Code Annotated, § 6-54-308.

$100,000 to $500,000	$460.00 for the first $100,000.00 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.00.
$500,000 and up	$1,660.00 for the first $500,000.00 plus $2.00 for each additional thousand or fraction thereof.

MOVING FEE

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

DEMOLITION FEE

For the demolition of any building or structures, the fee shall be $100.00.

MECHANICAL PERMIT

$11.00	For issuing permit
$11.00	For base mechanical (1st – $1,000.00)
$ 2.20	(2nd and each additional $1,000.00)
$11.00	For fire sprinkler (1st – $1,000.00)
$ 2.20	(2nd and each additional $1,000.00)
$11.00	For fire suppression system (1st – $1,000.00)
$ 2.20	(2nd and each additional $1,000.00)

PENALTIES

Where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein. (as added by Ord. #2009-13, Nov. 2009, as replaced by Ord. #2016-09, Aug. 2016 ***Ch12_04-09-18***)

4-106. Plumbing code. (1) The 2012 International Plumbing Code (IPC) is hereby adopted with any modifications.

(2) Modifications. 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. Wherever "city engineer," engineering department, plumbing official or "inspector" is named or referred to, it shall mean the building inspector or person(s) appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code.

(3) Available at town hall. Pursuant to requirements of the Tennessee Code Annotated, one (1) copy of the International Plumbing Code - 2012 edition and the other associated codes hereby adopted in this ordinance will be placed in the administration office at town hall and shall be kept there for the use and inspection of the public.

(4) Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code or associated codes herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

(5) Permit fees. The schedule of permit fees shall be the fees established in the plumbing and associated codes herein adopted.

PLUMBING PERMIT FEES

$11.00	For issuing permit
$2.75	For each plumbing fixture or trap of fixtures on one trap (including water and drainage piping)
$5.50	For each house sewer
$5.50	For each house sewer having to be replaced or repaired
$2.75	For each water heater and/or vent
$5.50	For installation of water piping and/or water treating equipment
$5.50	For alteration or repair of water pipe and/or water treatment equipment
$5.50	For repair or alteration of drainage or vent piping
$2.75	For vacuum breakers or backflow protective devices installed subsequent to the installation of piping or equipment served

PENALTIES

Where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein. [as added by Ord. #2016-09, Aug. 2016 ***Ch12_04-09-18***]

CHAPTER 2

(this chapter was deleted by Ord. #2016-09, Aug. 2016 ***Ch12_04-09-18)***

CHAPTER 3

HOUSING CODE

SECTION
4-301. Housing code adopted.
4-302. Modifications.
4-303. Available in recorder's office.
4-304. Violations.

4-301. Housing code adopted. Pursuant to authority granted by sections 6-54-501 through 6-54-506 of the Tennessee Code Annotated and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,[1] 1991 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. [Ord. of Oct. 9, 1979, § 4-301, modified, as amended by Ord. #94-12, Oct. 1994]

4-302. Modifications. Wherever the housing 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 housing code. Wherever the "Department of Law" is referred to, it shall mean the town attorney. Wherever the "Chief Appointing Authority" is referred to, it shall mean the Board of Mayor and Aldermen. Section 108 of the housing code is deleted. [Ord. of Oct. 9, 1979, § 4-302, modified]

4-303. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, three (3) copies of the housing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. [Code of 1982]

4-304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. [Ord. of Oct. 9, 1979, § 4-303]

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[1]Copies of this code may be obtained from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 4

FAIR HOUSING CODE[1]

SECTION

4-401. Definitions.
4-402. Purpose.
4-403. Unlawful housing practices.
4-404. Exemptions from housing provisions.
4-405. Denial of access to multiple-listing services, etc.
4-406. Establishment of procedures for dissemination, conciliation, and enforcement.
4-407. Penalties.
4-408. Exhaustion of remedies.

4-401. Definitions. Except where the context clearly indicates otherwise, the following terms as used in this chapter have the following meanings.

(1) Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, or sex, or the aiding, abetting, inciting, coercing, or compelling thereof.

(2) Real property includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, or any interest in the above.

(3) Conciliation agreement means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(4) Individual or person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(5) To rent includes to lease, sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. [Ord. of June 13, 1978, § 1]

4-402. Purposes. The general purposes of this chapter are:

(1) To provide for execution within the Town of Jonesborough of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968 as amended.

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[1]See chapter 6 of this title for the "Fair Housing Ordinance."

(2) To safeguard all individuals within the town from discrimination in housing opportunities because of race, color, religion, national origin, or sex; thereby to protect their interest in personal dignity and freedom from humiliation; and to further the interests, rights, and privileges of individuals within the town.

Nothing contained in the chapter shall be deemed to repeal any other law of this town relating to discrimination because of race, color, religion, national origin, or sex. [Ord. of June 13, 1978, § 2]

4-403. Unlawful housing practices. It is an unlawful practice for a real estate owner or operator, or for a real estate broker, real estate salesman, or any individual employed by or acting on behalf of these:

(1) To refuse, after making a bona fide offer, to sell, exchange, rent, or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin, or sex;

(2) To discriminate against an individual in the terms, conditions, or privileges of a sale, exchange, rental, or lease of real property or in the furnishings of facilities or services in connection therewith, because of race, color, religion, national origin, or sex;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his or her race, color, religion, national origin, or sex;

(4) To refuse to negotiate for the sale, rental, or lease of real property, to refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property, to represent to an individual that real property is not available for inspection, sale, rental, or lease when it is so available, or to refuse to permit an individual to inspect real property, because of his or her race, color, religion, national origin, or sex.

(5) To make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale, rental, or lease of real property that directly or indirectly indicates a limitation, specification, or discrimination, as to race, color, religion, national origin, or sex;

(6) To represent that a change has occurred, will, or may occur in the composition with respect to race, color, religion, national origin, or sex of owners or occupants in the block, neighborhood, or areas in which the real property is located, for the purpose of obtaining financial benefits; or to represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located, for the purpose of benefiting financially. [Ord. of June 13, 1978, § 3]

4-404. Exemptions from housing provisions. (1) Nothing in section 4-403 shall apply:

(a) To the rental of housing accommodations for no more than four families living independently of each other, if the owner or member of his family resides in one of the housing accommodations;

(b) To the rental of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family resides therein;

(c) To a landlord who refuses to rent to an unmarried male - female couple.

(2) Nothing in section 4-403 should apply to a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of a dwelling which it owns or operates for other than a commercial purpose, to persons of the same religion; or from giving preference to such persons, unless membership in such a religion is restricted on account of race, color, national origin, or sex. [Ord. of June 13, 1978, § 4]

4-405. Denial of access to multiple-listing services, etc. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization, or other service, organization, or facility relating to the business of selling or renting dwellings; or to discriminate against him in the terms and conditions of such access, membership, or participation on account of race, color, religion, national origin, or sex. [Ord. of June 13, 1978, § 5]

4-406. Establishment of procedures for dissemination, conciliation, and enforcement. (1) The Town of Jonesborough shall designate a Citizens' Fair Housing Sub-Committee of the Community Development Citizen Advisory Committee and said sub-committee is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this chapter. It may call a conference of persons in the housing industry and other interested parties to acquaint them with the provisions hereof.

(2) The sub-committee will investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation may be initiated by any person(s) said to be subject to discrimination as defined in this chapter.

(3) Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of said sub-committee. A complaint shall be filed within 180 days after the alleged unlawful act has occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the Fair Housing Sub-Committee. Upon receipt of a complaint, the sub-committee shall promptly investigate it and shall complete

its investigations within fifteen (15) days. If a majority of the Citizens' Fair Housing Sub-Committee finds reasonable cause to believe that a violation of this chapter has occurred, the sub-committee may take any reasonable action deemed necessary to reach a conciliation agreement between the parties in contest. If conciliation cannot be reached, or if a person charged with violation of this chapter refuses to furnish information to said sub-committee, the sub-committee may request the town attorney to prosecute an action in the town court against the person charged in the complaint. Such request shall be in writing.

(4) Upon receiving such written request and with the assistance of the aggrieved person and said sub-committee, within fifteen (15) days after receiving such request, the town attorney shall be prepared to prosecute an action in the town court, provided a warrant is sworn out by the aggrieved person, and served upon the person or persons charged with the offense.

(5) The provisions for conciliation shall not preclude or in any way impair the enforcement.

(6) If the community development advisory committee becomes inactive, the fair housing committee shall continue obligations set forth in the fair housing ordinance with vacancies filled by appointment of the mayor and approval of the board. [Ord. of June 13, 1978, § 6, modified]

4-407. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor. [Ord. of June 13, 1978, § 7, modified]

4-408. Exhaustion of remedies. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the Federal Civil Rights Acts or other applicable legal provisions. [Ord. of June 13, 1978, § 8]

CHAPTER 5

NUMBERING OF BUILDINGS

SECTION

4-501. Numbering of buildings required.
4-502. General responsibility.
4-503. Proper size, generally.
4-504. Placement of numbers.
4-505. Display of designated numbers only.
4-506. Display before final approval.
4-507. Enforcement/penalties.

4-501. Numbering of buildings required. All primary buildings in the city limits of Jonesborough, including but not limited to the following: residences, apartments, business offices, individual shops in shopping center developments and other units requiring a 9-1-1 number shall be given a number that must be displayed as required in section 4-504. [as added by Ord. #93-06, June 1993]

4-502. General responsibility. It shall be the responsibility of the building inspector or his/her designee with assistance of the local planning office to determine the correct numbering of all properties within the city limits and see that these numbers are properly communicated to the homeowner, post office, and 9-1-1. [as added by Ord. #93-06, June 1993]

4-503. Proper size, generally. House numbers shall be a minimum of 4 inches in height, however, property owners within the historic district may petition the building inspector for a waiver of size requirements if existing structure limitations necessitate. [as added by Ord. #93-06, June 1993]

4-504. Placement of numbers. Property address numbers shall be placed conspicuously above, on, or at the side of the street entrance door of each building, or each unit of the building that has an outside entrance, so that the number can be plainly seen from the street. Should the distance from the street line to the door inhibit discernment of numbers placed on the building, then the numbers should be placed upon a gatepost, mailbox, fence, post or other appropriate place easily seen from the street line. [as added by Ord. #93-06, June 1993]

4-505. Display of designated numbers only. Property owners shall only display building numbers designated by the building inspector or his/her designee. [as added by Ord. #93-06, June 1993]

4-506. Display before final approval. No final approval of the remodeling or construction of buildings shall be granted by the building inspector until conspicuous building numbers have been placed. [as added by Ord. #93-06, June 1993]

4-507. Enforcement/penalty. The building inspector or the chief of police shall be the enforcing officer for regulations established in this chapter. Violators of any provision of the chapter will be guilty of a misdemeanor and subject to fines not to exceed fifty dollars ($50.00) per offense with each day of violation being a separate offense. [as added by Ord. #93-06, June 1993]

CHAPTER 6

FAIR HOUSING ORDINANCE

SECTION

4-601. Policy.
4-602. Definitions.
4-603. Unlawful practice.
4-604. Discrimination in the sale or rental of housing.
4-605. Discrimination in the financing of housing.
4-606. Discrimination in the provisions of brokerage services.
4-607. Exemption.
4-608. Administration.
4-609. Education and conciliation.
4-610. Enforcement.
4-611. Investigations; subpoenas; giving of evidence.
4-612. Enforcement by private person.

4-601. Policy. It is the policy of the Town of Jonesborough to provide, within constitutional limitations, for fair housing throughout the community. [Ord. #92-03, § 1, Jan. 1992]

4-602. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under section 4-604, 4-605, or 4-606. [Ord. #92-03, § 2, Jan. 1992]

4-603. Unlawful practice. Subject to the provisions of subsection 4-603(2) and section 4-607, the prohibitions against discrimination in the sale or rental of housing set forth in section 4-604 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in section 4-604 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than

three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior the such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented

(i) without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and

(ii) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of Section 4-604(3) of this chapter, but nothing in this proviso shall prohibit the use of assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. [Ord. #92-03, § 3, Jan. 1992]

4-604. <u>Discrimination in the sale or rental of housing</u>. As made applicable by section 4-603 and except as exempted by sections 4-603(2) and 4-607, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or handicap.

(2) To discriminate against any person in terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or handicap.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or handicap, or any intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or handicap. [Ord. #92-03, § 4, Jan. 1992]

4-605. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or handicap of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in the section shall impair the scope or effectiveness of the exception contained in section 4-603(2). [Ord. #92-03, § 5, Jan. 1992]

4-606. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access,

membership, or participation, on account of race, color, religion, sex, national origin, familial status or handicap. [Ord. #92-03, § 6, Jan. 1992]

4-607. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or handicap. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. [Ord. #92-03, § 7, Jan. 1992]

4-608. Administration. (1) The authority and responsibility for administering this act shall be in the Mayor of the Town of Jonesborough.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the town or such board as may be created by the board of mayor and aldermen for such purposes including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. [Ord. #92-03, § 8, Jan. 1992]

4-609. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. He/she shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his/her suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. [Ord. #92-03, § 9, Jan. 1992]

4-610. Enforcement. The mayor will investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation may be initiated to any person(s) said to be subject to discrimination as defined in this chapter.

Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the mayor. A complaint shall be filed within 180 days after the alleged unlawful act has occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the mayor.

The mayor shall be responsible for the enforcement as set forth in Title 8 of the Civil Rights Act of 1968 as amended by the Fair Housing Amendment Act of 1989. [Ord. #92-03, § 10, Jan. 1992]

4-611. Investigations; subpoenas; giving of evidence. (1) In conducting the investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements or such persons as are reasonably necessary for the furtherance of an investigation as provided for and under the guidelines and restrictions set forth in Title 8 of the Civil Rights Act of 1968 as amended by the Fair Housing Amendment Act of 1989.

(2) The town attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. [Ord. #92-03, § 11, Jan. 1992]

4-612. Enforcement by private person. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by the chapter to exhaust the remedies provided herein; nor prevent any such person from commencing a civil action or seeking relief under the provisions and protection set forth in Title 8 of the Civil Rights Act of 1968 as amended by the Fair Housing Amendment Act of 1989. [Ord. #92-03, § 12, Jan. 1992]

TITLE 5

BUSINESSES, PROFESSIONS, AND OCCUPATIONS[1]

CHAPTER
1. MISCELLANEOUS.
2. MASSAGE PARLORS.
3. OPERATION OF ANIMAL DRAWN VEHICLES.
4. TAXICABS.
5. POOL ROOMS, ETC.

CHAPTER 1

MISCELLANEOUS

SECTION
5-101. "Going out of business" sales.
5-102. Business license required.

5-101. "Going out of business" sales. It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days, he shall prima facie be deemed to have violated this section. [Code of 1982]

5-102. Business license required. (1) Any vocation, occupation, business or business activity engaging in sales as enumerated, described or referred to in 67-4-708(1)-(3) of the Tennessee Code Annotated is hereby subject to a privilege tax not to exceed the rates fixed and provided for in said code.

(2) All requirements for payment documentation, collecting, etc. in the ordinance are intended to coincide with provisions established in the Business Tax Act as currently adopted and as may be further amended by the state legislature from time to time.

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[1]For beer business regulations in this code, see title 2, chapter 2; for regulations relating to building, plumbing, etc., see title 4; for privilege tax provisions, etc., see title 6; for health and sanitation regulations with respect to certain businesses such as junk yards, etc., see title 8; for restrictions on posting notices or advertisements and making noise to attract attention, see title 10; and for zoning provisions, see title 11.

(3) The business license, except as exempted with transient business and other temporary businesses, shall be renewable on an annual basis.

(4) Those businesses or occupations designated in Tennessee Code Annotated, § 67-4-712 are hereby exempted from the payment of the business privilege tax including but not limited to:

(a) Persons selling livestock, horses, poultry, nursery stock or farm products provided said sales are made directly by the producer, breeder or trainer of said products.

(b) Businesses having a total volume of sales of less than $3,000.

(c) Any institution operated for religious or charitable purposes with respect to any profits which are earned from the sale of items contributed to the institution or articles produced by the institution from each contributed items.

(d) "Business" includes any activity engaged in by any person, or caused to be engaged in by the person, with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include occasional and isolated sales or transactions by a person not routinely engaged in business.

(5) In the case of antique malls, flea markets, craft shows, antique shows, gun shows and auto shows, as described in Tennessee Code Annotated, § 67-4-709, the owner, manager, operation or promoter of the facility shall be required to obtain a business license and shall collect and submit to the town recorder one dollar ($1.00) fee per day per booth from each exhibitor at the promotion location. In the case of a flea market, exhibitors shall have the option of remitting the business tax in accordance with Tennessee Code Annotated provisions or may remit a one dollar ($1.00) fee per booth per day to the flea market operators. Those obtaining an annual license shall provide evidence of such license to the operator before conducting business.

(6) Transient vendors shall pay a tax of fifty dollars ($50.00) for each fourteen-day period in which said vendor sells or offers to sell merchandise or for which they are issued a business license in Jonesborough. Such tax shall be paid prior to the first day of engaging in business.

(a) "Transient vendor" is defined as 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 the purpose 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 pubic 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 the person's permanent residence for more than six (6) consecutive months.

(b) Although there are no other guidelines other than those adopted in the Business Tax Act governing the acquisition of a transient business license, the following conditions must be met before a transient vendor or operator begins conducting business:

(i) Must have been issued a transient business by the town recorder.

(ii) The vendor must fill out an application for a transient business permit with the application listing the person(s) operating the business, nature of business, specific location, contact numbers, and set-up details.

(iii) The temporary premises must be properly zoned for the business and not be located on public right-of-way.

(iv) The building inspector must review the intended temporary business operation for any code requirements, including but not limited to stormwater/sedimentation concerns, lighting glare and trespass, structural issues, and shall reserve the right to require said transient vendor to provide proof that the operation meets health department standards or is not required to meet any such standard.

(v) The public safety director must review the intended temporary business operation to determine if any public safety hazards may exist due to traffic or pedestrian ingress and egress.

(vi) The building inspector must issue a transient business permit in lieu of a certificate of occupancy to the applicant for only one approved location listed on the application form. The transient vendor must display the permit on the business premises in a location easily seen by the public.

(c) Temporary businesses exempted from the transient vendor permit criteria established in 5-102(6)(b) include:

(i) Vendors allowed to set up in the boundaries established for a special event and approved by the board of mayor and aldermen through the special event permit process.

(ii) Garage sales provided said sales meet any requirements for garage sales established by the town.

(iii) Sales of one motor vehicle by the owner(s).

(iv) Bake sales, car washes, and other non-profit organizations (optional) except that no such fund raising activities shall be allowed within a special event boundary approved by the board of mayor and aldermen without a vendor permit issued by

the sponsor of the event unless the activity is being conducted by the owner of a business property within the boundary that is properly licensed and permitted to carry out such business.

(d) Temporary businesses located on business property that are not operated though the records of the existing properly licensed business must obtain a separate transient business permit before they conduct business.

(7) Temporary business permit required. It shall be unlawful for any temporary business to be engaged in their trade within the town corporate limits without first obtaining a permit in compliance with the provisions of this section.

(a) "Temporary business" shall be defined as any person who engages in the giving away, the selling or offering for sale food; of goods, wares or merchandise (defined as all variety of merchandise items, whether handmade or manufactured, but not necessarily limited to souvenirs, gifts, prizes, art, school supplies, cloth, clothing or wearing apparel, toys, balloons, novelties, small appliances, works of art or crafts, tools or mechanical, devices of any nature); or who solicits patronage for any person, business, or service by word of mouth, gesture, or by use of electrical, mechanical or sound-making devices, to entice or persuade anyone to buy, sell or accept goods, wares or merchandise within the corporate limits of Jonesborough, where the above mentioned activities are conducted from a temporary premises or location. A temporary business can also be defined as a business that is open to the public on the same parcel as a regular business but is not in a permanent structure, sells or promotes a substantially different product, and is owned or managed by someone different from the other regular business(es), or a temporary business that is in a multi-store complex and the temporary premises is not immediately adjacent to the business owner.

(b) "Temporary premises" shall mean any vacant lot, building or part of a building, tent, private parking area, or other such space not owned by the town or other governmental entity in which a merchant temporarily occupies for the purpose of exhibiting stocks of merchandise to the public for sale. No town right-of-way or open space shall be considered temporary premises to be used for temporary business merchant activity, except as may be authorized through special events permits or other chapters in the municipal code. A temporary premises does not include an outside sales or display area used on a regular or on-going basis that is under the general cover of the associated building, or a location approved for outside sales that is on an approved site plan.

(c) Application for permit: Applicants for a temporary business permit under this section must file with the town recorder an application containing the following for each itinerant merchant:

(i) Name of applicant - each party involved in the management of the merchant activity.

(ii) Address of applicant(s) and contact information including local contact number(s) if applicant is not local.

(iii) If employed, name of employer, title or position with employee, and address and contact information of employer.

(iv) Description of business or merchant activity including food, goods or merchandise to be sold or promoted.

(v) Length of time the authorization to do business is desired.

(vi) A schematic providing the information required in the Jonesborough Zoning Ordinance. Title 11, chapter 5, §§ 11-518(6) and 11-519(7):

(vii) Address of any previous locations in which the business was in operation during the last three (3) years.

(viii) Certification of property owner that authorizes business on premises submitted.

(ix) Schematic of any signage to be used in association with temporary merchant activity.

(x) Verification that the proposed premises is properly zoned for the temporary merchant activity intended.

(xi) Verification of active Jonesborough business license.

(xii) Verification of current sales tax number from Tennessee Department of Revenue.

(xiii) A certificate of appropriateness from the historic zoning commission if the premises to carry out the merchant activity is within the historic district, and if a business with a temporary business permit is allowed.

(xiv) Verification of the acquisition of any permit(s) that may be required from the Washington County Health Department or other regulatory agency, if applicable.

(xv) Verification from the building inspector and fire marshal that the temporary business activity creates no apparent safety or code issues.

(xvi) Justification that the structure(s) associated with the temporary business does not need to be moved each night.

(xvii) Proof of liability insurance coverage of one million dollars ($1,000,000.00) or such figure satisfactory to the planning commission.

(d) Exceptions: Except as may be required in some other section of this chapter, the terms of the section regarding permitting temporary merchants shall not be applicable to persons selling wholesale to dealers, to licensed merchants who deliver goods in the regular course of business, nor to newspaper sales, nor for garage or yard sales, nor to a person

receiving authorization to engage their trade through a special event permit or outdoor use permit.

(e) Application approval: Applications shall be submitted to the town recorder who will undertake an initial review. Final approval of a temporary business permit shall be made by the Jonesborough Planning Commission after reviewing a complete application submittal.

(f) Temporary permits issued will be good for eight (8) contiguous months and may not be renewed for at least sixteen (16) months. Permit holders may choose to deactivate the business activity for some period of time during the permit period, however if the temporary business activity is re-activated the operation and set-up must meet all the criteria and conditions established and approved by the planning commission initially when the permit was issued. While the eight (8) month limitation with a temporary business permit issued is intended to govern the business use and not the location of the temporary business, the planning commission reserves the right to also consider the business owner and location when receiving a permit application that could be considered a request for a temporary business permit renewal.

(g) There is a limit of five (5) temporary business permits that can be issued at the same time, within the town limits.

(h) There is a limit of one temporary business permit per property or parcel, and temporary business permit locations must be at least five hundred feet (500') apart.

(i) At the end of the permit period, all non-permanent site improvements must be removed within five (5) days from the final day of the permit period.

(j) Temporary business permits must be displayed or exhibited in a prominent location on the temporary premises at all times business activity is open or available to the general public.

(8) Due dates for taxes shall be those established in § 67-4-714 and 67-4-715 of the Tennessee Code Annotated, except as otherwise provided for transient vendors, craft shows, etc. in Tennessee Code Annotated, § 67-4-709.

(9) Collection of delinquent taxes composed shall be as established in Tennessee Code Annotated, § 67-4-719, which states:

(a) That business tax due shall be delinquent and payable twenty (20) days after such opening or commencement of said business.

(b) March 1, for tax due previous December 31 (Classification 1)
June 1, for taxes due previous March 31 (Classification 2)
September 1, for taxes due previous June 30 (Classification 3)
December 1, for taxes due previous September 30 (Classification 4)
March 1, for tax due previous December 31 (Classification 5)

(c) In addition to all other available methods of collection, the town recorder may retain, by written contract, an attorney or agent to collect or to institute proceedings to collect delinquent business taxes, interest and penalties, upon such terms as the recorder deems appropriate. The costs of collection, including, but not limited to, the court costs and the reasonable compensation for the attorney or agent, as approved by the court, are the responsibility of the delinquent tax payer. Upon receiving a business tax disbursement from the court, the recorder shall disburse such taxes according to the disbursement formula established by law.

(d) The recorder, in cases of taxes owed to the town under this part, shall notify the taxpayer by mail to the taxpayer's last known address fifteen (15) days prior to turning delinquent taxes over to an attorney or agent retained for collection or instituting proceedings to collect such taxes. The notice shall state that the tax is delinquent and if not paid within ten (10) days will be subject to additional costs of collection including court costs. The notice shall also include the rate of penalty and interest.

(e) If the recorder retains an attorney or agent to assist in the collection of taxes imposed by this part, the attorney or agent is deemed to be a tax collector for the purpose of having access to all statements, reports or returns of a taxpayer and is subject to Tennessee Code Annotated, § 67-4-722 which governs access to taxpayers' records. (Ord. #92-13, Sept. 1992, as replaced by Ord. #2004-04, Dec. 2004, and amended by Ord. #2012-04, April 2012)

CHAPTER 2

MASSAGE PARLORS

SECTION

5-201. Definitions.
5-202. License required.
5-203. License requirements.
5-204. Jonesborough massage permit required.
5-205. Application for Jonesborough massage permit.
5-206. Revocation of permit.
5-207. Exemptions.
5-208. Right of entry for inspection.
5-209. Permit fee.
5-210. Permit renewal.
5-211. Permit transfer.
5-212. -- 5-215. [Deleted.]

5-201. Definitions. (1) Compensation: means the payment, loan, advance donation, contribution, deposit or gift of money, or anything of value.

(2) Massage/bodywork/somatic: means the manipulation of the soft tissues of the body with the intention of positively affecting the health and well-being of the client.

(3) Massage establishment: means a place of business held out to the public wherein massage is practiced.

(4) Massage therapist: means a person who practices massage for compensation and is licensed by the Tennessee Massage Licensure Board. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-202. License required. Persons or massage establishments engaged in massage for compensation shall be licensed by the Tennessee Massage Licensure Board. No person or establishment may use the word "massage" or any other term that implies massage technique or method when advertising a service by a person unless that person is licensed by the Tennessee Massage Licensure Board. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-203. License requirements. Requirements to receive a massage therapist license are established in procedures and policies adopted by the Tennessee Massage Licensure Board, and as outlined in Tennessee Code Annotated, § 63-18-105. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-204. Jonesborough massage permit required. Persons or establishments to provide massage service within the corporate limits of the Town of Jonesborough must have a massage permit. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-205. Application for Jonesborough massage permit. Persons or establishments intending to undertake massage services for compensation must submit a permit application that includes the following information:

(1) Name, address and contact information of applicant.

(2) Address of establishment where massage services will take place, and name, address and contact information of owner of premises.

(3) Copy of active license as a massage therapist from the Tennessee Massage Licensure Board.

(4) Copy of certificate of occupancy or approved inspection of premises letter from the Jonesborough Building Inspector or designee.

(5) Proof of Jonesborough business license as individual or establishment. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-206. Revocation of permit. Jonesborough massage permits may be revoked, restricted or conditioned for any violation of Tennessee Code Annotated,§ 63-18-108, including, but not limited to, employing, allowing or permitting any unlicensed person to perform massage in such licensee's establishment, providing false information, failure to allow inspection or investigation of premises, or failure to meet all financial and licensing requirements of the establishment. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-207. Exemptions. Any person exempt from massage licensing requirements under Tennessee Code Annotated, § 63-18-110 shall be exempt from massage permit requirements of the Town of Jonesborough. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-208. Right of entry for inspection. The chief of police or his duly authorized representative, and the Jonesborough Building Inspector and Safety Officer are hereby authorized to enter, examine and survey any premises in the town in which a massage permit license has been issued during normal business hours to enforce provisions of this chapter. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-209. Permit fee. A permit fee may be established by the Jonesborough Board of Mayor and Aldermen. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-210. Permit renewal. The Jonesborough massage permit shall automatically renew without additional submittals as long as the licensee continues providing massage services at the same location. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-211. Permit transfer. No massage permits may be transferred. (Ord. of Oct. 21, 1987, as replaced by Ord. #2011-11, Aug. 2011)

5-212.--5-215. [Deleted.] (Ord. of Oct. 21, 1987, as deleted by Ord. #2011-11, Aug. 2011)

CHAPTER 3

OPERATION OF ANIMAL DRAWN VEHICLES

SECTION

5-301. Use restricted.
5-302. Permit required.
5-303. Permits renewed annually.
5-304. Transferability of permit.
5-305. Permit fee.
5-306. Permit revocation and expiration.
5-307. Liability insurance - required.
5-308. Certificate of appropriateness.
5-309. Design standards.
5-310. Safety and appearance - annual inspections.
5-311. Safety inspection fee.
5-312. Tour guide required.
5-313. Drivers certificate required.
5-314. Certificate of health of animals required.
5-315. Non-slip shoes required for animals.
5-316. Diapering apparatus required.
5-317. Compliance with traffic regulations.
5-318. Maintenance of traffic flow.
5-319. Passenger loading.
5-320. Route limitations.
5-321. Rates and schedules displayed.

5-301. Use restricted. It shall be unlawful for any person to operate or cause to be operated any vehicle drawn by animals for the purpose of conducting tours within the city limits of Jonesborough except as provided for in this chapter. [Ord. #92-04, April 1992]

5-302. Permit required. Any person desiring to operate or cause to be operated an animal-drawn vehicle, hack, or carriage for tour or transportation services shall file application for a permit through the town recorder and must have that application approved by the board of mayor and aldermen. Permit application shall be on forms approved by the board and shall include but not be limited to the following:

(1) Permit application form which includes a recommendation from staff;

(2) A certificate of appropriateness approved by the chief of police;

(3) A certificate of health for all individual animals to be used in the service.

(4) Proof of issuance of a Jonesborough business license.

(5) Driver's certificates for all persons driving the animal-drawn vehicle(s)

(6) Certificate of insurance.

Permit applications are open to the public and notification of a pending permit application will be made through the appropriate local newspaper prior to action by the board of mayor and aldermen.

Permits will be signed by the mayor and recorder upon approval by the board, and the town recorder will notify all proper authorities including the town's general liability carrier of the permit approval. [Ord. #92-04, April 1992]

5-303. Permits renewed annually. Permits must be renewed annually by the board of mayor and aldermen by application which must include a certificate of appropriateness renewal form approved by the chief of police, the appropriate certificate of health forms for all animals, and certificate of insurance. [Ord. #92-04, April 1992]

5-304. Transferability of permit. A permit to operate an animal-drawn vehicle required under this chapter shall be issued on a specific vehicle and for a specific owner, and is not transferable. The permit remains the property of the Town of Jonesborough and must be surrendered upon expiration or revocation. [Ord. #92-04, April 1992]

5-305. Permit fee. Any owner, lessee, corporation, or other entity that is issued a permit under the provisions of this chapter shall pay a permit fee of one-hundred dollars ($100.00) annually per vehicle permitted. Renewal fees will be one-hundred dollars ($100.00) per year. Permit fees may be amended as deemed necessary by the board of mayor and aldermen. [Ord. #92-04, April 1992]

5-306. Permit revocation and expiration. A permit issued under the provisions of this chapter may be revoked temporarily by the chief of police for reasons of imminent danger to public safety. The circumstances requiring the revocation shall be listed in writing and sent to the owner, lessee, corporation or other entity involved in the permitted operation. A list of corrective actions necessary shall accompany the correspondence.

The board of mayor and aldermen may revoke a permit for, but not limited to, the following reasons:

(1) The animal drawn vehicles are made available to the public less than twenty-six (26) weeks in any year;

(2) The number of hours the animal-drawn vehicles are available in a week consistently falls below twenty (20) hours except during the winter months.

(3) The board determines that the animal-drawn vehicle operation has become a discredit to the town through the appearance and behavior of the drivers or the condition of the animals and equipment.

(4) The drivers associated with the animal-drawn vehicle operation constantly violate or ignore Jonesborough traffic regulations;

(5) Notification is received that the owner's, lessee's, corporation's or other entity's liability insurance coverage on the animal-drawn vehicle program has been canceled or has been reduced below the minimum limits required.

(6) The board determines that the health and safety of the general public is in jeopardy by allowing the animal-drawn service to continue to operate.

(7) A renewal application is not submitted before the annual renewal date, thus resulting in an automatic expiration and revocation of the permit until such time that a new permit is directed by the board of mayor and aldermen. [Ord. #92-04, April 1992]

5-307. Liability insurance - required. It shall be unlawful for any owner, operator, agent, lessee, or driver of any animal-drawn vehicle for tour or transportation purposes to drive or operate said vehicle(s) or permit same to be driven or operated on the public streets or right-of-ways of the Town of Jonesborough without having a liability insurance policy issued by a reliable and responsible insurance company authorized to write liability insurance and to do business in the State of Tennessee that is in full force and is on file at the recorder's office at any time the animal-drawn vehicle is in operation.

Insurance policies shall cover bodily injuries, including death at any time resulting therefrom, accidentally sustained by any person caused by or arising out of the ownership, maintenance, use or operation of animal-drawn vehicles; or caused by or resulting from the loading or unloading of such vehicles. In addition, coverage shall include injuries to, and the destruction of, property so sustained by any person caused by or arising out of the ownership, maintenance, use or operation of the animal-drawn vehicles.

The policy may not be altered, modified, or canceled for any reason without notice of such alteration, modification, or cancellation being served upon the town recorder.

The policy shall be issued with minimum bodily injury and property damage liability limits of $500,000.00 for each occurrence and aggregate. [Ord. #92-04, April 1992]

5-308. Certificate of appropriateness. No animal-drawn vehicle shall operate a tour or transportation business within the Town of Jonesborough without a duly issued certificate of appropriateness. Certificates of appropriateness shall be issued by the chief of police or his designee and shall include but not be limited to the following:

(1) Adequate identification of the applicant, the animal drawn vehicle, and proof of ownership;

(2) Dimensions, weight, passenger capacity and other characteristics as deemed necessary of the vehicle;

(3) Color photographs of the vehicle showing all sides;

(4) A satisfactory safety and appearance inspection;

(5) A route map designating direction traveled on streets and scheduled stops that is approved by the chief of police and director of tourism.

The chief of police or appropriate designee upon satisfaction of appropriateness shall issue a certificate that must be presented in the permit application to the recorder. [Ord. #92-04, April 1992]

5-309. Design standards. Animal-drawn vehicles shall be authentically styled passenger carriages and must be maintained in a clean well-painted manner so as to provide a generally good appearance. All animal-drawn vehicles must be approved through a safety and appearance inspection in advance of their use. Equipment on the vehicle shall be maintained in good repair. The following will be among these items monitored in the inspection:

Body Condition
Reflectors
Grab Handles
Traces
Harness
Seats
Wheels
Top
Shafts
Steps
Lights
Brakes
Non-slip Shoes on Animals. [Ord. #92-04, April 1992]

5-310. Safety and appearance - annual inspections. The owner, lessee, corporation or other entity operating an animal-drawn tour or transportation vehicle in the Town of Jonesborough shall subject each vehicle used to a complete and thorough annual inspection to be carried out by a designated Jonesborough garage mechanic under the direction of the chief of police. The chief of police is given the authority to suspend the permit of any vehicle that might cause imminent danger to the public's safety. [Ord. #92-04, April 1992]

5-311. Safety inspection fee. A fee will be charged for carrying out the annual safety and appearance inspection. The fee is $15.00, however, the fee may be changed from time to time as deemed necessary by the board of mayor and aldermen. [Ord. #92-04, April 1992]

5-312. Tour guide required. All tours on animal-drawn vehicles must be conducted by a registered tour guide. Every driver must be neat and clean in appearance and shall while on duty wear in plain view a badge or name plate with his or her name thereon. No driver may smoke while carrying any passenger. [Ord. #92-04, April 1992]

5-313. Drivers certificate required. Any person driving or operating an animal-drawn vehicle for the purpose of conducting tours in the Town of Jonesborough must be registered with the chief of police and receive a drivers certificate. Applicants for a drivers certificate must verify that:

(1) He or she has a current automobile vehicle drivers license;

(2) He or she is a reputable citizen through a minimum of two (2) references;

(3) He or she is a person of good moral character, and a signed sworn written statement whether or not the applicant has been convicted of any felony or any violation involving moral turpitude.

(4) He or she has passed any requirements, if any, for tour guide operating in Jonesborough.

In addition, the applicant must demonstrate to the chief of police or his designee by written or oral examination, that he or she has satisfactory knowledge and competence in the following:

(1) Principal streets of Jonesborough;

(2) Traffic regulations/use of loading zones;

(3) Handling animal drawn vehicles;

(4) Any other requirements as deemed necessary by the board of mayor and aldermen or the chief of police;

Drivers certificates must contain a photograph of the approved driver and must be displayed and visible when driving an animal-drawn vehicle. [Ord. #92-04, April 1992]

5-314. Certificate of health of animals required. The applicant for a permit or renewal of a permit to drive or operate an animal-drawn vehicle within the Town of Jonesborough shall provide as a precondition a certificate of health by a doctor of veterinary medicine duly licensed in the State of Tennessee, for each animal to be used in the tour or transportation service in Jonesborough. The certificate shall certify that the doctor has examined said animal and that the same is of good health and capable of pulling the tour or transportation vehicle. [Ord. #92-04, April 1992]

5-315. Non-slip shoes required for animals. All animals used in the animal-drawn tour and transportation vehicle service shall be provided with non-slip shoes. [Ord. #92-04, April 1992]

5-316. Diapering apparatus required. It shall be unlawful for any person, firm, corporation or other entity to utilize any animal for the purpose of pulling any vehicle, hack or carriage for tour or transportation purposes on the streets of Jonesborough unless such animal is equipped with a diapering apparatus that prevents the droppings of said animal from being deposited or otherwise left on the town streets. It shall be the responsibility of the person, firm, corporation or other entity utilizing any animal for the purpose of pulling any tour or transportation vehicle to see that the diapering apparatus is maintained in working order. In the event of failure, it will be the sole responsibility of the owner to properly and immediately clean-up any waste on public streets or right-of-ways by sundown of the day of occurrence. Such clean up, however, does not prohibit the owner from being fined through the provisions of this chapter. The Town of Jonesborough at its discretion may clean up the animal waste if the public interest and health requires and bill the owner for the service(s). Each area of animal waste shall be considered a separate offense. [Ord. #92-04, April 1992]

5-317. Compliance with traffic regulations. Any person, firm, corporation or other entity having been issued a permit to operate a business under this chapter shall be subject to all traffic regulations, ordinances in the Jonesborough Municipal Code, and any applicable regulations in the Tennessee Code Annotated. [Ord. #92-04, April 1992]

5-318. Maintenance of traffic flow. On Main Street animal-drawn vehicles of any kind conducting tours shall remain in and be part of the normal traffic flow, however, said vehicles may pull over temporarily into loading zones to prevent unnecessary delays to following traffic. Said vehicles may also stop and stand for description purposes when loading zones are available. On side streets tour vehicles may temporarily pull to the side to prevent unnecessary delays to following traffic. [Ord. #92-04, April 1992]

5-319. Passenger loading. Animal-drawn vehicles may pick up or discharge passengers at the Historic Jonesborough Visitor Center, at designated loading zones, or any other location approved by the board of mayor and aldermen. [Ord. #92-04, April 1992]

5-320. Route limitations. Animal-drawn vehicles must operate within the general boundaries of the area between North and South Lincoln Ave. in the East; New Street at Cherokee and Depot Street at S-81 in the South; West Main to Persimmon Ridge Road to the West but including Persimmon Ridge Road to Persimmon Ridge Park; and the south boundary of U.S. 11-E/Jackson Blvd. but not including U.S. 11-E/Jackson Blvd. itself or any streets to the north of U.S. 11-E.

The board may make exception to the boundaries above, but must approve each on an individual request basis. [Ord. #92-04, April 1992]

5-321. Rates and schedules displayed. It shall be the responsibility of the owner, lessee, or operator of any animal-drawn vehicle tour or transportation business to appropriately display said rates and schedules at the Jonesborough Visitor Center in such a manner deemed appropriate by the Visitors Center Director. [Ord. #92-04, April 1992]

CHAPTER 4

TAXICABS[1]

SECTION

5-401. Taxicab franchise and privilege license required.
5-402. Requirements as to application and hearing.
5-403. Liability insurance or bond required.
5-404. Revocation or suspension of franchise.
5-405. Mechanical condition of vehicles.
5-406. Cleanliness of vehicles.
5-407. Inspection of vehicles.
5-408. License and permit required for drivers.
5-409. Qualifications for driver's permit.
5-410. Revocation or suspension of driver's permit.
5-411. Drivers not to solicit business.
5-412. Parking restricted.
5-413. Drivers to use direct routes.
5-414. Taxicabs not to be used for illegal purposes.
5-415. Miscellaneous prohibited conduct by drivers.
5-416. Transportation of more than one passenger at the same time.

5-401. 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. [Code of 1982]

5-402. Requirements as to application and hearing. No person shall be eligible for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the Board of Mayor and Aldermen; and make a recommendation

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[1]For privilege tax provisions, etc., see title 6 in this code.

either to grant or refuse a franchise to the applicant. The Board of Mayor and Aldermen shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise, the Board of Mayor and Aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. [Code of 1982]

5-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in title 55, chapter 12, Tennessee Code Annotated. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the recorder of the town. [Code of 1982]

5-404. 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. [Code of 1982]

5-405. 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 view mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. [Code of 1982]

5-406 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. [Code of 1982]

5-407. 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. [Code of 1982]

5-408. 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. [Code of 1982]

5-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

(1) Makes written application to the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Produces affidavits of good character from two (2) reputable citizens of the 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 traffic offenses.

(7) Is familiar with the state and local traffic laws. [Code of 1982]

5-410. 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 section 5-409. [Code of 1982]

5-411. 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. [Code of 1982]

5-412. 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 interfere

unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. [Code of 1982]

5-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. [Code of 1982]

5-414. 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. [Code of 1982]

5-415. 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 blow the automobile horn unnecessarily; or otherwise to disturb unreasonably the peace, quiet, and tranquility of the town in any way. [Code of 1982]

5-416. 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. [Code of 1982]

CHAPTER 5

POOL ROOMS, ETC.

SECTION
5-501. Hours of operation regulated.
5-502. Minors prohibited in pool rooms.
5-503. Unlawful for owner to allow minor to play pool, etc.
5-504. Unobstructed view from sidewalk to be maintained in pool rooms.
5-505. Pool prohibited in beer establishments.
5-506. Violations.

5-501. Hours of operation regulated. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard or pool rooms or tables or nine pin, or ten pin alleys, or for their agents, employees, servants, or other perons for them, to play, or permit any person or persons to play any games in said billiard or pool rooms, or play the game of billiards or pool upon such billiard or pool tables, or to play any game upon such nine pin or ten pin alleys, or roll balls thereon, within the limits of Jonesborough, Tennessee, except between the hours of 6:00 o'clock, a.m. and 11:59 o'clock, p.m. [Ord. of May 12, 1986, repealing Ord. of March 27, 1926, § 1 as amended by ord. of May 3, 1944, § 1]

5-502. Minors prohibited in pool rooms. It shall be unlawful for minors under the age of 18 years of age unless accompanied by their parents or guardians to engage in the playing of pool or billiards in any publicly operated establishment or to congregate or loiter in or around any such pool room or billiard hall within the town. [Ord. of May 12, 1986, repealing Ord. of June 23, 1955, § 1]

5-503. Unlawful for owner to allow minor to play pool, etc. It shall be unlawful for the owner, operator, manager, or anyone in charge of or having any connection with a billiard parlor or pool room to suffer or permit any minor under the age of 18 years to play or participate in any game of pool or billiards or similar game or to congregate or loiter in or about the premises of such billiard parlor or pool room, except when said under the age of 18 years is accompanied by a parent or guardian. [Ord. of May 12, 1986, repealing Ord. of June 23, 1955, § 2]

5-504. Unobstructed view from sidewalk to be maintained in pool rooms. It shall be unlawful to maintain or operate any pool room or billiard room, or any part thereof, or any device therein or connected therewith for playing pool, billiards, or any other game similar thereto, within the corporate limits of the

Town of Jonesborough, except when such is open to plain and unobstructed view of and from the sidewalk in front of such building in which the said business is being operated; neither shall there be any obstructions as to view, in respect to any part or portion of such room in which such games are being played, whether by partition in whole or in part. [Ord. of Oct. 8, 1946, § 1]

5-505. Pool prohibited in beer establishments. It shall be unlawful to operate any type of pool room in the same room or building in which beer is consumed, or in any room or building having a connection by door or otherwise into or with any other room or building where beer is consumed as will afford passage of persons from the one room or building into another room or building; the mere locking of any existing doors being insufficient, without the erection of permanent walls or their equivalent. [Ord. of May 12, 1986, repealing Ord. of Oct. 8, 1946, § 2]

5-506. Violations. Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, therefore, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) for each violation. [Ord. of May 12, 1986]

TITLE 6

FINANCE AND TAXATION[1]

CHAPTER
1. PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. BUDGET AMENDMENTS.
5. PRIVILEGE TAX ON THE OCCUPANCY OF HOTELS AND MOTELS.
6. OPERATION AND USE OF UNMANNED AERIAL VEHICLES.

CHAPTER 1

PROPERTY TAXES

SECTION
6-101. Property tax rate.
6-102. When due and payable.
6-103. When delinquent--penalty and interest.
6-104. Property tax relief program.

6-101. Property tax rate. The property tax rate for the current fiscal year, as ordained by the Board of Mayor and Aldermen is incorporated by reference herein. A copy of the ordinance assessing the property tax for the current fiscal year shall be kept on file in the recorder's office or other office so assigned by the recorder.

6-102. When due and payable. Taxes levied by the town against real property shall become due and payable annually on the first day of September of the year for which levied. (Code of 1982)

6-103. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes. (Code of 1982)

6-104. Property tax relief program. (1) That a Jonesborough Property Tax Relief Program is hereby established that is operated under the tax relief

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[1]See § 1-1013 of this municipal code for the levy of a city litigation tax. See § 5-102 for the levy of a permit fee upon all business with the town.

guidelines established in Tennessee Code Annotated, §§ 6-7-5-702 to -704 for Jonesborough residents provided that in no event shall the total relief allowed by the state and Jonesborough exceed the total taxes actually paid.

(2) In order to receive property tax relief from Jonesborough, the resident shall have already applied and been approved for tax relief through the State of Tennessee on an annual basis.

(3) The total amount of tax relief provided by the Town of Jonesborough shall be determined by an annual appropriation and shall be subject to the availability of funds.

(4) The amount of property tax relief from Jonesborough to an eligible individual homeowner will equal to the amount per individual as determined by the State of Tennessee.

(5) The provisions of this section shall be administered through the town recorder's office. (as added by Ord. #2011-13, Oct. 2011)

CHAPTER 2

PRIVILEGE TAXES

SECTION
6-201. Tax levied.
6-202. License required.
6-203. Certificate of occupancy required.

6-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (title 67, chapter 4, Tennessee Code Annotated) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the said act. [Code of 1982]

6-202. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. Violations of this section shall be punished under the general penalty provisions of this code of ordinances. [Ord. 38, April 16, 1906 § 1 modified)

6-203. Certificate of occupancy required. A certificate of occupancy must be issued to any new business or changed use within an existing business by the building inspector before a business permit may be issued by the town recorder. [Code of 1982]

CHAPTER 3

WHOLESALE BEER TAX

SECTION

6-301. To be collected.

6-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in chapter 6 of title 57, Tennessee Code Annotated. [Ord. of March 13, 1973, § 5, modified]

CHAPTER 4

BUDGET AMENDMENTS

SECTION
6-401. Prior approval.
6-402. No limitation of power.

6-401. Prior approval. Prior to the approval of any amendment to the annual budget that would increase appropriations for the expenditure of town funds, the town board shall approve a resolution that identifies corresponding source of funds to cover the proposed additional expenditure, and/or identifies a corresponding reduction in expenditure to compensate for the proposed additional expenditure. [Ord. of June 8, 1987]

6-402. No limitation on power. Nothing in this chapter shall be construed or interpreted as an expansion or limitation of any power or authority granted to the municipality by the State of Tennessee. [Ord. of June 8, 1987]

CHAPTER 5

PRIVILEGE TAX ON THE OCCUPANCY OF HOTELS AND MOTELS

SECTION

6-501. Definitions.
6-502. Levy of tax.
6-503. Collection of tax.
6-504. Tax to be remitted to town recorder.
6-505. Town recorder to collect tax.
6-506. Tax not to be absorbed by operator.
6-507. Delinquent taxes.
6-508. Records.
6-509. Recorder to administer and enforce provisions.
6-510. Tax to town general fund.
6-511. Severability.
6-512. Tax rate.

6-501. Definitions. As used in this chapter unless the context otherwise requires:

(1) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(2) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

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

(4) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days.

(5) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(6) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise. [as added by Ord. #92-11, § 1, Aug. 1992]

6-502. Levy of tax. The legislative body of Jonesborough is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. [as added by Ord. #92-11, § 2, Aug. 1992]

6-503. Collection of tax. Such tax shall be added by each operator to each invoice prepared by the operator for the occupancy in his hotel and be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the town.

When a person has maintained occupancy for thirty (30) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the town. [as added by Ord. #92-11, § 3, Aug. 1992, and amended by Ord. #2008-09, Sept. 2008]

6-504. Tax to be remitted to town recorder. The tax hereby levied shall be remitted by all operators who lease, rent or charge for occupancy within a hotel in the town to the town recorder, such tax to be remitted to such officer no later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the town for such tax shall be that of the operator. [as added by Ord. #92-11, § 4, Aug. 1992]

6-505. Town recorder to collect tax. The town recorder shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the town recorder by the operator with such number of copies thereof as the recorder may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the recorder and approved by the board of mayor and aldermen of the Town of Jonesborough prior to use. The recorder shall audit each operator in the town at least once per year and shall report on the audits made on a quarterly basis to the board of mayor and aldermen. The board of mayor and aldermen is authorized to adopt ordinances or resolutions to provide reasonable rules and regulations for the implementation of the provisions of this chapter. [as added by Ord. #92-11, § 5, Aug. 1992]

6-506. Tax not to be absorbed by operator. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator so that it will not

be added to the rent, or that if added, any part will be refunded. [as added by Ord. #92-11, § 6, Aug. 1992]

6-507. Delinquent taxes. Taxes collected by an operator which are not remitted to the recorder on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition, a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars ($50). [as added by Ord. #92-11, § 7, Aug. 1992]

6-508. Records. It shall be the duty of every operator liable for the collection and payment to the town of the tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the town, which records the recorder shall have the right to inspect at all reasonable times. [as added by Ord. #92-11, § 8, Aug. 1992]

6-509. Recorder to administer and enforce provisions. The recorder in administering and enforcing the provisions of this chapter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks,

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of the chapter. The recorder shall also possess those powers and duties as provided in Tennessee Code Annotated, section 67-1-707(a)(b), for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by him/her under authority of this ordinance and to direct the refunding of same. Notice of any tax paid under protest shall be given to the recorder and the ordinance or resolution authorizing levy of the tax shall designate a town officer against whom suit may be brought for recovery. [as added by Ord. #92-11, § 9, modified, Aug. 1992]

6-510. Tax to town general fund. The recorder is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the town general fund. Such funds may be used for the promotion of tourism. [as added by Ord. #92-11, § 10, Aug. 1992]

6-511. Severability. If any provision of this chapter or the application thereof to any person circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. [as added by Ord. #92-11, § 11, Aug. 1992]

6-512. Tax rate. The hotel privilege tax be hereby set at five (5%) percent of the consideration charged by the operation. [as added by Ord. #92-11, § 12, Aug. 1992]

CHAPTER 6

OPERATION AND USE OF UNMANNED AERIAL VEHICLES

SECTION
6-601. General.
6-602. Governing regulations.
6-603. Additional operating requirements.
6-604. Exemptions.
6-605. Approval and revocation of authority to operate commercial UAVs.
6-606. Severability.

6-601. General. An Unmanned Aerial Vehicle (UAV) for the purpose of this chapter is defined as unpiloted equipment capable of flight used for any commercial purpose, including agricultural purposes where crops are grown as part of a commercial farming operation, or where the aerial vehicle is used to search, scout, locate or detect as an aid for the hunting of wild animals. The operator(s) of any commercial unmanned aerial vehicle must be registered with the Jonesborough Police Department before undertaking any UAV flights within the Jonesborough city limits. [as added by Ord. #2017-03, May 2017 ***Ch12_04-09-18***]

6-602. Governing regulations. (1) UAVs shall operate during daylight hours unless the operator has been issued an exemption waiver by the Federal Aviation Administration and the Jonesborough Police Department.

(2) UAVs must be used with a line-of-sight operation.

(3) UAVs in Jonesborough must be operated at sixty (60) mph or below.

(4) The maximum altitude of a UAV in use in Jonesborough shall be four hundred feet (400').

(5) UAV operators must be commercial operators with a Jonesborough business license, an operator's license from the Federal Aviation Administration, and any other license required by federal, state and county jurisdictions.

(6) Operators of UAVs shall be liable for personal injury or property damage resulting from the operation of a UAV in Jonesborough. A commercial operator must sign a hold-harmless agreement reviewed and accepted by the town attorney.

(7) Operators of commercial UAVs must have liability insurance with a minimum single event coverage of one million dollars ($1,000,000) with the Town of Jonesborough listed as additional insured. Proof of insurance must be reviewed and accepted by the Jonesborough Town Attorney.

(8) Commercial operators and UAV equipment must meet all Federal Aviation Administration requirements including but not limited to the following:

(a) Aircraft vehicle weight of fifty-five (55) pounds or less.

(b) Any pre-flight inspections of vehicle, including battery strength, that must be conducted, along with documentation of those inspections.

(c) Registration of aircraft vehicle(s) and proper markings.

(9) Flying model aircraft for hobby or recreational reasons does not require Federal Aviation Administration (FAA) approval; however, operators of that equipment need to register the UAV with the FAA if it weighs between 0.55 lbs. and up to 55 lbs. The operation must be carried out under the criteria for flying model hobby or recreational aircraft under the law. Use of flying model aircraft must be on private property in which ownership or permission for flight use has been obtained, or on public property in which permission for model hobby flight has been granted. Flights must be within the boundary of the property of ownership of which permission has been granted.

(10) The attachment of weapons, explosives for any weaponization, including chemical or electrical, of UAVs is prohibited. [as added by Ord. #2017-03, May 2017 ***Ch12_04-09-18***]

6-603. Additional operating requirements. (1) Within four (4) hours in advance of each and every commercial use of a commercial UAV, the operator shall provide notification to the Jonesborough Police Department of the date, time and location of the intended flight, launch site, contact information, and any other information that may be required by the police department. The UAV operator must receive a signed acknowledgment form from the police department before the UAV flight is initiated within Jonesborough's city limits.

(2) The use of a UAV over public property is prohibited without authorization from the town. Except by law enforcement with approved authority, or with the permission of the property owner, the use of UAVs over private property with the intent to conduct surveillance or "spy" on an individual or property capturing an image, photographs or video, and to possess, disclose, display, distribute, project or otherwise use such image is prohibited. Operators are prohibited from intentionally intruding, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns. Intrusive actions are those that would highly offend a "reasonable person."

(3) The use of a UAV for the purpose of searching, scouting, locating, detecting or any other activity aiding the hunting of wild animals or in preventing the legal hunting of wild animals is prohibited.

The operation of any UAV in transit above private property must be at least two hundred feet (200') in altitude.

(4) Operating a UAV while intoxicated by alcohol or under the influence of a controlled substance is prohibited.

(5) Operating a UAV in a careless or reckless manner which may endanger life or property is prohibited.

(6) Operating a UAV directly over streets, sidewalks, walkways, etc. where a significant number of people (fifty (50) people or more in a two (2) block area) are present is prohibited.

(7) In accordance to §39-13-901 of the Tennessee Code Annotated, UAV commercial operators are prohibited from:

(a) Using an unmanned aircraft to capture an image of an individual or privately owned real property in the state with the intent to conduct surveillance of the individual or property captured in the image.

(b) Using an unmanned aircraft without the venue owner or operator's consent, to intentionally capture an image of an individual or event in an open-air event venue wherein more than one hundred (100) individuals are gathered for a ticketed event.

(c) Knowingly using an unmanned aircraft within or over a designated fireworks discharge site, fireworks display site or fireworks fallout area during an event as defined in §68-104-202 of the Tennessee Code Annotated, without the consent of the owner or operator of the event. [as added by Ord. #2017-03, May 2017 ***Ch12_04-09-18***]

6-604. Exemptions. (1) This chapter shall not prohibit the operation of UAVs, either directly by the Jonesborough Police Department or on behalf of the Jonesborough Police Department by written agreement, for any law enforcement activity undertaken in accordance with federal, state and local regulations.

(2) This chapter shall not prohibit the use of UAVs for recreational use by an operator at least sixteen (16) years of age, or model airplane use by an operator when the flight is on private property owned by the operator, or on private property with the permission of the owner, or on public property in which specific approval for such aerial flight has been granted, and when flight altitude is four hundred feet (400') or less. [as added by Ord. #2017-03, May 2017 ***Ch12_04-09-18***]

6-605. Approval and revocation of authority to operate commercial UAVs.

(1) It shall be the sole authority of the chief of police to grant operating authority to an individual or business to operate a commercial UAV within the city limits of Jonesborough. Authority to operate shall be considered after the review of all documentation required and submitted, and shall not be unreasonably withheld.

(2) The Town of Jonesborough reserves the right to revoke any permission to operate a commercial UAV in Jonesborough by an individual or business for any reason, and at the sole discretion of the Town of Jonesborough, by and through the chief of police. [as added by Ord. #2017-03, May 2017 ***Ch12_04-09-18***]

6-606. Severability. If any clause or section of this chapter is for any reason found to be illegal or invalid, the illegality or invalidity of that clause or section shall not affect or impair any of the remaining provisions or sections. [as added by Ord. #2017-03, May 2017 ***Ch12_04-09-18***]

TITLE 7[1]

FIRE PROTECTION, FIREWORKS, AND EXPLOSIVES[2]

CHAPTER
1. PUBLIC SAFETY ADVISORY COMMITTEE.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIREWORKS.
5. OPEN BURNING.

CHAPTER 1

PUBLIC SAFETY ADVISORY COMMITTEE

SECTION
7-101. Establishment.
7-102. Composition, appointment, membership, and terms.
7-103. Rules and staff.
7-104. Meetings.
7-105. Rules of procedure.
7-106. ISO committee.

7-101. Establishment. The Jonesborough Public Safety Advisory Committee is hereby established. The purpose of the public safety advisory committee shall be review and comment, advise and generally assist the director of public safety and other public safety department staff in all matters concerning the general operation of the public safety department. [as added by Ord. #2000-12, Sept. 2000]

7-102. Composition, appointment, membership, and terms. The public safety advisory committee shall be composed of seven (7) members determined as follows:

At or before its regular December meeting, the board of mayor and aldermen shall appoint members to the committee. One of the members shall

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[1]See title 4 in this code for the building and housing codes.
See title 11 in this code for the zoning ordinance.

[2]See title 10 in this code for prohibition on firearms.

be a member of the board of mayor and aldermen selected by said board, the remaining members shall be selected by the mayor and confirmed by the board of mayor and aldermen. The terms of the members shall be for three year terms. For the initial appointment only and to allow for staggered terms, two members shall serve a one year term, two members shall serve a two year term and three members shall serve a three year term. Any vacancy in the membership shall be filled for the unexpired term by the board of mayor and aldermen, which shall also have the power to remove any member with or without cause. [as added by Ord. #2000-12, Sept. 2000]

7-103. Rules and staff. The committee shall adopt rules and regulations for the orderly discharge of its duties subject to the approval of the board of mayor and aldermen. The director of public safety shall serve as staff to the public safety advisory committee. Other town employees shall serve as staff to the committee as deemed appropriate by the director of public safety. [as added by Ord. #2000-12, Sept. 2000]

7-104. Meetings. At its annual organizational meeting, the public safety advisory committee shall schedule regular meetings for the subsequent year. With reasonable notice, special meetings of the committee may be called by the director of public safety or the committee chairs. [as added by Ord. #2000-12, Sept. 2000]

7-105. Rules of procedure. The advisory committee shall elect a chair, vice-chair, and secretary from among its members. The term of the chair, vice-chair, and secretary shall be for one (1) year with eligibility for reelection. The advisory committee shall hold an organization meeting in December of each year and it shall adopt its own rules of procedure. [as added by Ord. #2000-12, Sept. 2000]

7-106. ISO committee. The public safety advisory committee shall also serve as the ISO advisory committee for the Town of Jonesborough. It shall be the responsibility of the public safety advisory committee to monitor the efforts of the Town of Jonesborough to maintain or improve the town's ISO rating. The committee shall issue an annual report which advises the board of mayor and aldermen on the goals, status and recommended course of action to maintain or improve the town's ISO fire status ratings. [as added by Ord. #2000-12, Sept. 2000]

CHAPTER 2

FIRE CODE

SECTION

7-201. Adoption of National Fire Code.
7-202. Obligation to obey provisions.
7-203. Fire chief responsible for enforcement.
7-204. Duties of officers of bureau of fire prevention.
7-205. Duty of fire marshal.
7-206. Fire chief responsible for instructing fire marshal.
7-207. Investigations of fires in Jonesborough.
7-208. Inspection before permits are issued.
7-209. Inspections of commercial establishments.
7-210. Modifying dangerous situations.
7-211. Fire marshal shall compile records.
7-212. Fire marshal shall make annual report.
7-213. Changes in fire prevention code.
7-214. Provisions apply to public and private property.
7-215. Exercise of police powers.
7-216. Penalties.
7-217. Board of appeals.
7-218. Amendments to code.
7-219. Appendixes included.
7-220. Affidavit of compliance.

7-201. Adoption of National Fire Code. This chapter shall be known as the Town of Jonesborough's Fire Prevention Code. This chapter adopts the Fire Protection Code of the National Fire Protection Association, NFPA No. 1 and its incorporated standards and codes as published in the National Fire Codes of the NFPA Fire Prevention Code and being particularly the 1991 editions thereof, save and except those portions such as are hereinafter deleted, modified, or amended by section 7-218 of this chapter. The same are hereby adopted and incorporated as fully as if set out at length herein. Not less than one copy of the adopted issue of the Fire Protection Code of the National Fire Protection Association, NFPA No. 1 and the adopted standards and codes of the National Fire Codes shall be filed in the office of the Fire Chief or Building Inspector, Town Hall, Boone Street, Jonesborough, and the provisions thereof shall be controlling within the limits of the Town of Jonesborough. In addition, this chapter adopts the National Fire Protection Association Life Safety Code 101 and being particularly the 1991 edition. [Ord. of Jan. 12, 1982, as replaced by Ord. #94-12, Oct. 1994]

7-202. Obligation to obey provisions. It shall be unlawful for any person to violate this chapter, to permit or maintain such violation, to refuse to obey any provision thereof, or to fail or refuse to comply with any such provisions or regulation except as variation may be allowed by the fire chief in writing or the Board of Mayor and Aldermen. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof of either the owner, occupant, or the person in charge shall not be deemed to relieve any of the others. [Ord. of Jan. 12, 1982]

7-203. Fire chief responsible for enforcement. The fire chief of the Jonesborough Fire Department shall be responsible for the enforcement of the Jonesborough fire prevention code. The fire chief of the Jonesborough Fire Department may detail such members of the fire department as inspectors as shall from time to time be necessary. In absence of the fire chief or inspectors within the Jonesborough Fire Department, the Jonesborough building inspector will be responsible for enforcement of the Jonesborough fire prevention code.

To assist in the performance of the Jonesborough Fire Department, a bureau of fire prevention in the fire department of Jonesborough is hereby created. This bureau shall operate under the supervision of the fire chief of the Jonesborough Fire Department. The fire chief shall designate a fire official of the fire department as fire marshal and present the name of this official to the Board of Mayor and Aldermen for approval. The fire marshal shall be responsible for the direct administration and enforcement of the Jonesborough fire prevention code as may be set forth by the Jonesborough fire chief. The fire marshal shall be recommended on the basis of examination or other method for determining his qualifications.

The Jonesborough fire chief may designate such number of technical inspectors as shall from time to time be authorized by the Board of Mayor and Aldermen. Such technical inspectors shall be selected through an examination or other appropriate selection process to determine their fitness for the position. [Ord. of Jan. 12, 1982]

7-204. Duties of officers of bureau of fire prevention. It shall be the duty of the officers of the bureau of fire prevention to enforce all laws and ordinances of the Town of Jonesborough covering the following:

(1) The prevention of fires;

(2) The storage and use of explosives and flammables;

(3) The installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment;

(4) The maintenance and regulation of fire escapes;

(5) The means and adequacy of exit in case of fire, from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters,

amphitheaters, and all other places in which numbers of persons work, live, or congregate, from time to time for any purpose.

(6) The investigation of the cause, origin, and circumstances of fires;

(7) The maintenance of fire cause and loss records.

They shall have such other powers and perform such other duties as are set forth in other sections of this chapter, and as may be conferred and imposed from time to time by law. The fire chief of the fire department may delegate any of his powers or duties under this chapter to the fire marshal. [Ord. of Jan. 12, 1982]

7-205. Duty of fire marshal. It shall be the duty of the fire marshal of the Jonesborough Fire Department to investigate and to recommend to the town administrator and the Board of Mayor and Aldermen such additional ordinances or amendments to existing ordinances, as he may deem necessary for safeguarding life and property against fire. [Ord. of Jan. 12, 1982]

7-206. Fire chief responsible for instructing fire marshal. The fire chief of the Jonesborough Fire Department shall prepare instructions for the fire marshal and his assistants, and forms for their use in the reports required by this chapter. [Ord. of Jan. 12, 1982]

7-207. Investigations of fires in Jonesborough. The bureau of fire prevention shall investigate the cause, origin, and circumstances of every fire occurring in the Town of Jonesborough by which property has been destroyed or damaged and, so far as possible, shall determine whether the fire is a result of carelessness or design. Such investigations shall begin immediately upon the occurrence of such a fire. The fire marshal shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. Every fire shall be reported in writing to the bureau of fire prevention within 48 hours after the occurrence of the same by the fire department officer in charge when the fire occurred. Such report shall be in such forms as shall be prescribed by the fire marshal of the Jonesborough Fire Department and shall contain a statement of all facts relating to the cause, origin, and circumstances of such fire, the extent of the damage thereof, and the insurance upon such property and such other information as may be required including the injury, death, or rescue of persons. [Ord. of Jan. 12, 1982]

7-208. Inspection before permits are issued. Before permits may be issued as required by this code, the fire marshal or his assistants shall inspect and approve the receptacles, processes, vehicles, building, or storage places to be used for any such purposes. [Ord. of Jan. 12, 1982]

7-209. Inspections of commercial establishments. The fire marshal shall inspect or cause to be inspected all premises housing large groups, commercial, industrial, or retail establishments, or any other premise necessary to protect the general well-being of the public; on a periodic basis, and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire. [Ord. of Jan. 12, 1982]

7-210. Modifying dangerous situations. Whenever any inspector, as defined above, shall find in any building, or upon any premise or other places, combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulations of waste paper, boxes, shavings, or any highly flammable materials especially susceptible to fire, and which is so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows, likely to interfere with the operations of the fire department or egress of occupants in case of fire, he shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premise or buildings; subject to the appeals procedure provided for in the Jonesborough Fire Prevention Code.[1]

Any owner or occupant failing to comply with such order within a reasonable period after the service of said order shall be liable to penalties as hereinafter provided.

The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of the same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the said person a copy of the said order, or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy by certified mail to owner's last known post office address. [Ord. of Jan. 12, 1982]

7-211. Fire marshal shall compile records. The fire marshal shall compile and keep a record of all citation and of all the facts concerning the same, including injuries, deaths, rescue of persons and statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance, and if so, in what amount. Such records shall be made frequently from the reports made during inspections under the provisions of this ordinance. All such records shall be made public. [Ord. of Jan. 12, 1982]

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[1]See Section 7-218 Appendix G.

7-212. Fire marshal shall make annual report. The fire marshal shall make an annual report of the activities of the bureau of fire prevention and shall transmit this report to the town administrator and the Board of Mayor and Aldermen of the Town of Jonesborough through the Jonesborough fire chief. The report shall contain all proceedings under the Jonesborough fire prevention code with such statistics as the fire chief may wish to include therein. [Ord. of Jan. 12, 1982]

7-213. Changes in fire prevention code. The Jonesborough fire chief or the fire marshal shall also recommend any amendments to the Jonesborough fire prevention code or ordinance which, in his judgement, shall be desirable. [Ord. of Jan. 12, 1982]

7-214. Provisions apply to public and private property. The provisions of the Jonesborough fire prevention code shall apply equally to both public and private property, and shall apply to all structures and their occupancies, except as otherwise specified. [Ord. of Jan. 12, 1982]

7-215. Exercise of police powers. This act shall be deemed in exercise of the police powers of the Town of Jonesborough for the preservation and protection of the public health, peace, safety, and welfare, and all the provisions of the Jonesborough fire prevention code shall be liberally construed for that purpose. [Ord. of Jan. 12, 1982]

7-216. Penalties. Any person who shall violate any of the provisions of the code hereby adopted; or shall fail to comply therewith; or shall violate or fail to comply with any order made thereunder, or shall build in violation of any details, statements, specifications or plans submitted or approved thereunder; or shall operate not in accordance with the provisions of any certificate, permit, or approval issued thereunder, and from which no appeal has been taken; or who shall fail to comply with such an order affirmed or modified by the fire marshal or by a court of competent jurisdiction within the time fixed herein shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor punishable as provided in the general penalty clause for the code. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. [Ord. of Jan. 12, 1982]

7-217. Board of appeals. A board of appeals is hereby established consisting of the Board of Mayor and Aldermen. [Ord. of Jan. 12, 1982]

7-218. Amendments to code. The Fire Prevention Code of the National Fire Protection Association, NFPA No. 1, is amended and changed in the following respects:

(1) Fire prevention code Section 3 to allow for the building inspector to fulfill the enforcement duties of the fire prevention code in absence of appropriate fire department personnel.

(2) Fire prevention code Section 4, add No. 8. Consideration is given to the historical significance of many Jonesborough buildings. Although maintaining life safety is a goal that can not be compromised, when possible the fire marshal will consider variances necessitated by the historical nature of the premises.

(3) Fire prevention code Section 9 modified so it is not required to inspect all premises in Jonesborough on a periodic basis.

(4) Fire prevention code Section 16 - delete clauses on imprisonment.

(5) Fire prevention code Section 20, omitted in entirety. Amended Section 20 refers to Affidavit of Compliance.

(6) Fire Prevention Code - Appendix G - modified as follows:

Appendix G

G1-1 Where any person seeks relief from a decision of the fire official enforcing provisions of this code including permits, certificates, waivers, alternate materials, alternate methods, approvals, or variances or matter of code interpretations, he may request reconsideration of the fire official's decision by appealing in writing to the fire chief within 15 days of the receipt of the decision stating the reasons why he seeks relief and what decision he feels should be forthcoming. The fire chief shall, within 10 days after receiving a copy of the appeal in writing, hold a hearing and decide the question after hearing testimony from all concerned persons. The fire chief shall render his written decision within five days after the hearing is completed. [Code of 1982]

G1-2 After such hearing by the fire chief, any person seeking relief from the decision of the fire chief regarding provisions of this code may appeal to the Board of Mayor and Aldermen within 15 days after receipt of written notice of the fire chief's decision. Such appeal shall be in writing and directed to the fire chief. Upon giving not less than five business days notice to the persons interested, a hearing shall be held. The board may, after such hearing, by a majority vote, affirm, annul, or modify the action of the fire chief. The decision of the board shall be in writing and a copy shall be mailed to the appellant within seven business days after the conclusion of the hearing and any decision made shall be final. Further recourse shall be through established legal procedures. [Ord. of Jan. 12, 1982]

7-219. Appendixes included. The following Appendixes of the Fire Prevention Code of the National Fire Protection association NFPA No. 1 are hereby included as part of the Jonesborough Fire Prevention code save and except those portions which are deleted, modified, or amended by Section 7-218 of this chapter. The same are hereby adopted and incorporated as fully as if set out at length herein.

Annex A
Appendix C - Fire Safety Regulations
Appendix F - General Authority to Combat Fires and Related Emergencies
Appendix G - Appeals procedure - amended as per Section 7-218-6
Appendix H - Code Violations
Appendix I - Permit System
Appendix J - Certificates of Fitness
Appendix K - Exceptions for on-premises fire fighting organizations
Appendix L - Vapor Degreasing and Spray Cleaning [Ord. of Jan. 12, 1982]

7-220. Affidavit of compliance. An affidavit of compliance must be signed by the owner or developer of any new construction project or modification of an existing premises requiring a building permit. [Ord. of Jan. 12, 1982]

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT[1]

SECTION

7-301. Establishment.
7-302. Exclusive fire department.
7-303. Objectives.
7-304. Firefighters as employees.
7-305. Existing volunteer firefighters.
7-306. Recommendation and final selection of additional firefighters.
7-307. Qualifications for firefighters.
7-308. Town employee volunteers.
7-309. Identification.
7-310. Position of chief established.
7-311. Additional departmental officers.
7-312. Officer positions filled by department personnel without regard for paid/volunteer status.
7-313. Evaluations required.
7-314. Employee rights/due process.
7-315. Compensation.
7-316. Termination.
7-317. Training.
7-318. Fire calls outside the town limits.
7-319. Standard operating procedures.
7-320. Chief assistant to state commissioner.
7-321. Fiscal accountability.
7-322. Fire marshal.
7-323. Departmental meetings.
7-324. Fire hydrant policy.

7-301. Establishment. It is the intent of the board of mayor and aldermen to unite all fire prevention efforts sponsored by the Town of Jonesborough under one system of direct command that fits into the existing organizational structure that is accountable to the board of mayor and aldermen.

The Jonesborough Volunteer Fire Department established in 1938 by the board of mayor and aldermen as a totally volunteer organization is hereby incorporated into the Jonesborough Fire Department which is a departmental operation of the Town of Jonesborough. The department can consist of both paid and volunteer staff with such numbers and responsibilities as deemed necessary

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[1]For special privileges with respect to traffic, see title 9, chapter 1, in this code.

by the board of mayor and aldermen. Volunteer firefighters may continue to participate in a volunteer organization operating as the Jonesborough Volunteer Fire Department, electing officers and maintaining an auxiliary fund; however, organization by-laws must be redeveloped and approved by the board, by-laws shall specify accounting procedures for the auxiliary fund, and the duties of officers elected shall not involve leadership responsibility in the newly organized Jonesborough Fire Department. In addition, authorization to continue a volunteer association shall in no way conflict with the intent of this ordinance to unify all firefighters under one centralized operation. All firefighters both paid and volunteer will be directed by the paid full-time fire chief, or such other full-time or volunteer officer in the organizational structure of the department as designated by the board of mayor and aldermen.

All documents, equipment, and other assets that may exist through the town's all volunteer organization, for clarification purposes, are hereby placed under the direct responsibility of the reorganized structure of the town's fire department. [Ord. of Nov. 21, 1938, §§ 1 and 2, modified and ord. of Dec 2, 1940, § 1, modified; as replaced by Ord. #93-04, June 1993]

7-302. Exclusive fire department. The Jonesborough Fire Department shall be the exclusive fire suppression and prevention organization within the corporate limits of the Town of Jonesborough. It shall be illegal for any other organization or individual(s) to respond to calls for fire prevention and suppression efforts unless at the request of the board of mayor and aldermen, the director of public safety, or other officer in authority within the Jonesborough Fire Department.

It shall be illegal for any individual or organization to solicit, collect or raise money within the Town of Jonesborough for the purpose of funding a volunteer fire department, unless all advertisements and solicitations clearly and conspicuously provide the following statement with the name of the organization substituted for the wording in parentheses: "The (name of individual or organization soliciting money or support) is not associated with the Jonesborough Fire Department or the Town of Jonesborough and is not authorized to fight fires or to operate as a fire department within the corporate limits of the Town of Jonesborough." This statement shall be printed on the front of all correspondence and stated within the first fifteen (15) seconds of any telephone call solicitation or in-person solicitation.

No individual or organization, except the Jonesborough Fire Department, shall maintain or operate a fire hall or fire department within the corporate limits of the Town of Jonesborough. Except for the Jonesborough Fire Department or such organization requested by the Jonesborough Fire Department, no individual or organization shall maintain, operate, garage or store a fire truck within the Town of Jonesborough that is to be utilized for fire suppression efforts. [as added by Ord. #2000-06, June 2000]

7-303. 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 perform such rescue work as its equipment and/or the training of its personnel make practicable. [Ord. of Nov. 21, 1938, § 2, modified; as replaced by ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-304. Firefighters as employees. Full-time paid firefighters are regular town employees subject to all policies and regulations adopted by the board of mayor and aldermen. Volunteer firefighters are essential to the successful operation of the fire department and will be given all benefits possible subject to limitations created in the Fair Labor Standards Act and the availability of funds. Volunteer firefighter status, however, is not intended to infer a property right or any other right or obligation that may be given to regular paid town employees by state or federal law. [Ord. of Nov, 21, 1938, § 3, as replaced by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-305. Existing volunteer firefighters. All volunteer firefighters officially on the active role of the department at the time this Ordinance[1] is adopted by the board of mayor and aldermen are hereby grandfathered and automatically eligible to become volunteer employees in the re-established Jonesborough Fire Department. However, all existing firefighters must have a valid Tennessee driver's license, and the board reserves the right at any time to require an individual to pass a physical or psychological examination if the board determines the exam is essential to the overall operation of the department. [Code of 1982, as replaced by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-306. Recommendation and final selection of additional firefighters. All firefighters added to the existing fire department personnel will be interviewed by the appropriate staff and brought before the board of mayor and aldermen for approval. The final authority in selection rests with the board of mayor and aldermen. [Ord. of Dec. 2, 1940, § 2, as replaced by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-307. Qualifications for firefighters. The board of mayor and aldermen will adopt position descriptions for the different staff responsibilities in the

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[1]These provisions were taken from Ordinance #93-04, which passed third reading June 21, 1993.

department and may amend those responsibilities from time to time as deemed necessary. The board of mayor and aldermen will use the following as minimal criteria in evaluating additional applicants for any position in the fire department.

(1) Firefighters will be chosen on ability or potential without regard to sex, color, race, religion, or national origin;

(2) Firefighters must be eighteen (18) years of age.

(3) Firefighters must be citizens of the United States;

(4) Firefighters must pass a physical examination and drug test to be carried out by qualified medical personnel;

(5) Firefighters must be free of all apparent mental disorders as described in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition DSM-II of the American Psychiatric Association. The board of mayor and aldermen reserves the right to require all firefighters to be certified by a qualified professional in the psychiatric or psychological fields to be free of all apparent mental disorders;

(6) Firefighters must possess a valid Tennessee driver's license;

(7) Firefighters must pass a six (6) month probationary period. Upon action by the board of mayor and aldermen, a probationary period may be extended, but at no time may probation extend beyond twelve (12) months;

(8) All firefighters must have their fingerprints on file with the Tennessee Bureau of Investigation;

(9) Firefighters must be willing to participate in the State's Firefighters Certification Program and should obtain certification within two (2) years from the employment date;

(10) Upon the recommendation of fire department staff (paid and volunteer) the board will determine by policy any requirements deemed necessary regarding the distance a firefighters may live or work to be eligible to be a volunteer or paid employee of the fire department.

(11) Firefighters may not be convicted felons. A background check will be run by the police department. [Code of 1982, as replaced by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-308. Town employee volunteers. Full-time town employees from other departments may volunteer to participate in the fire department program. Participation is subject to the approval of department supervisors and will be governed by the provisions and policies established for all firefighters and by fair labor standards. Compensation will be determined by the board of mayor and aldermen. [Code of 1982, as amended by ord. of Oct. 21, 1987, as replaced by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-309. Identification. All firefighters will be issued a Jonesborough Fire Department uniform and will be issued an identification card. [Code of 1982,

as replaced by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-310. Position of fire chief established. The position of fire chief is hereby established. The fire chief will be a full-time position with compensation to be determined by the board of mayor and aldermen. A position description shall be adopted by the board and may be amended as necessary but it must designate the fire chief with the overall responsibility for directing and supervising all firefighters, paid and volunteer. The mayor will appoint at least two (2) representatives from the volunteer firefighters to serve on any interview committee to evaluate applicants for the fire chief's position. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-311. Additional departmental officers. In addition to the fire chief, the following supervisory positions may be created in the fire department: assistant chief, captain, and lieutenant. The number of officers at each level shall be recommended by the department and be approved by the board of mayor and aldermen. The recommendation shall be based on effective supervision and span of control of department personnel, properly addressing emergency and administrative responsibilities. Position descriptions in the Standard Operating Procedures Manual shall apply to each officer level and shall be approved by the board of mayor and aldermen. Position descriptions, authority, responsibility, and accountability shall be the same, whether positions are filled by volunteer or paid personnel. [as added by Ord. #93-04, June 1993, and replaced by Ord. #94-13, Nov. 1994, and renumbered by Ord. #2000-06, June 2000]

7-312. Officer positions filled by department personnel without regard for paid/volunteer status. Officer positions designated in section 7-310 shall be filled from the most qualified applicants through use of personnel policy guidelines and the approved guidelines in the standard operating procedures manual without regard for volunteer or paid status. [as added by Ord. #93-04, June 1993, and replaced by Ord. #94-13, Nov. 1994, and renumbered by Ord. #2000-06, June 2000]

7-313. Evaluations required. Evaluations of all firefighters, will be carried out annually under the provisions established in the town's personnel policy. Continued employment of all firefighters; whether volunteer or paid, firefighter or officer, or whether an existing firefighter at the time this

ordinance[1] is adopted or new employee, shall be based on the evaluation and disciplinary process established in the town's personnel policy. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-314. Employee rights/due process. All firefighters are expected to carry out their duties in a professional manner and act in a manner that brings credit to the department. All firefighters are subject to the guidelines that have been adopted in the town's personnel policy and to such policies that are established from time to time by the department and approved by the board of mayor and aldermen. Active fire department staff have access to all due process guarantees established for all employees in the town's personnel policy. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-315. Compensation. Volunteer and full-time paid firefighters will be compensated as deemed appropriate by the board of mayor and aldermen. Full time paid firefighters will be included in the town's employee compensation plan and will be eligible for all benefits established in the plan and the town's personnel policy.

Volunteers are not eligible for all regular employee benefits, but will be provided with workers compensation; life insurance to the extent funds will allow; and be paid an amount deemed appropriate by the board of mayor and aldermen to reimburse for formal training, fire calls, and overnight/weekend duty. Eligibility for payment will be established through policies developed by the department and approved by the board. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-316. Termination. All firefighters are subject to disciplinary measures including termination for inappropriate behavior as outlined in the town's personnel policy. All firefighters, however, have the right of appeal and other forms of due process also outlined in said policy. Firefighters employed after this ordinance goes into effect[2] who are on regular probation do not have the right to appeal and have only the guarantees outlined for probationary employees in the personnel policy. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-317. Training. All department personnel are required to participate in departmental training. All personnel are required to meet a minimum of 40

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[1]This chapter was taken from ordinance #93-04, which passed third reading June 21, 1993

[2]This chapter was taken from Ordinance #93-04, which passed third reading June 21, 1993.

hours of approved training annually. Training opportunities will be designed and scheduled to accommodate schedules of paid and volunteer staff. All firefighters will participate in the Tennessee Fireman's Certificate program and must be certified within two years of the June 1993 passage of the original ordinance or a maximum of two years from their beginning date of membership in the department. [as added by Ord. #93-04, June 1993, replaced by Ord. #94-13, Nov. 1994, and renumbered by Ord. #2000-06, June 2000]

7-318. Fire calls outside the town limits. The Jonesborough Fire Department will fight fires outside the town's limits within the service area designated by the Washington County Firemen's Association. A service fee of two-hundred fifty dollars ($250.00) will be charged for structural fires outside the town limits and one-hundred dollars ($100.00) for grass and vehicle fires. Billing and receipts will be handled through the recorder's office. In addition, the department will participate in fighting fires outside the department service boundary in areas included in any Mutual Aid Agreement approved by the board of mayor and aldermen. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-319. Standard operating procedures. Written operating procedures will be developed by the department and approved by the board of mayor and aldermen that govern the fire fighting and operational activities of firefighters. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-320. Chief assistant to state commissioner. Pursuant to requirements of section 68-102-108 of the Tennessee Code Annotated, the chief of the fire department is designated an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by chapter 102 of title 60 of the Tennessee Code Annotated and shall be subject to the directors of the insurance commissioner in the execution of the provisions thereof. [as added by Ord. #93-04, June 1993, modified, and renumbered by Ord. #2000-06, June 2000]

7-321. Fiscal accountability. The Jonesborough Fire Department will operate under the financial management system approved for all departments by the board of mayor and aldermen and governed by the Comptroller's Office of the State of Tennessee.

(1) Town appropriated funds, county and state funds, appropriations from organizations or agencies intended to support the daily operations of the department, and revenues received for services provided will be accounted for through the recorder's office and included in the town's audit.

(2) One half of funds received from Washington County or from fire calls outside the town limits up to a total of $20,000.00 will be kept in a capital

expense reserve fund to be used for major equipment purchases or repairs and major fire department capital improvements.

(3) The department will develop an annual budget with the assistance of the town administrator and present it to the board of mayor and aldermen for approval.

(4) The re-established volunteer fire department organization is authorized to maintain a separate auxiliary fund that is not subject to the recorder's control or the town audit, but only for funds collected by department employees through fund raising in a non-duty status; from donations from individuals, non-governmental agencies, or businesses desiring to contribute directly to the volunteer firefighters; or from the drink and snack machines in the fire hall that are not intended for public use. The recorder may also make deposits into the auxiliary fund for firefighter compensation payments if deemed necessary in the standard operating procedure.

Policies governing the use of auxiliary funds must be adopted by the volunteer fire department organization and approved by the board of mayor and aldermen. An annual report of the use and fund balance of the auxiliary fund shall be presented to the board of mayor and aldermen at the end of each fiscal year.

(5) Funds in the volunteer fire department fund at the time this ordinance is adopted[1] will be transferred to the re-established Jonesborough Volunteer Fire Department's Auxiliary Fund. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-322. Fire marshal. The fire chief will serve as fire marshall and must meet the certification requirements for a fire prevention official as mandated by state law. (TCA 68-18-113). The fire chief may designate another full-time officer within the fire department to carry out the duties of the fire marshall subject to the provisions in title 7, chapter 2, sections 7-203. - 7-206. of the Jonesborough Municipal Code and Tennessee Code Annotated 68-18-113. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-323. Departmental meetings. At least one meeting per month of all fire department personnel will be held at night to accommodate the schedule of the volunteers. [as added by Ord. #93-04, June 1993, and renumbered by Ord. #2000-06, June 2000]

7-324. Fire hydrant policy. 1. The Jonesborough Fire Department, with the assistance of the Jonesborough Water Department, shall maintain records showing the location and classification of fire hydrants within the Town of

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[1]This chapter was taken from Ordinance #93-04, which passed third reading June 21, 1993.

Jonesborough and those unincorporated areas of Washington County where the Jonesborough Fire Department has been designated as the primary fire suppression and prevention organization. The classification of fire hydrants shall be made in accordance with the requirements established in title 13, chapter 1, section 13-128, Fire hydrant classification and usage.

2. The Jonesborough Director of Public Safety or his designee shall enforce the ordinances of the Town of Jonesborough prohibiting the connection of pumper trucks to Class C fire hydrants other than for tank filling purposes with the pump disengaged. The director of public safety or his designee shall also notify all fire departments regularly utilizing fire hydrants in the Jonesborough Water Distribution System that connecting pumper fire trucks to Class C fire hydrants is unlawful. (as added by Ord. #2000-09, July 2000, and amended by Ord. #2011-17, Nov. 2011)

CHAPTER 4

FIREWORKS

SECTION
7-401. Provision applicable to fireworks.

7-401. Provision applicable to fireworks. It shall be unlawful for any person to sell or offer for sale, or keep in stock, or give away, within the town, any firecracker, cannon cracker, torpedo, roman candle, skyrocket, pinwheel, or any fireworks of any nature whatsoever, or any toy pistol or toy cannon, discharged by percussion caps or by percussion caps and gunpowder or other means. [Ord. of September 10, 1984]

CHAPTER 5

OUTDOOR BURNING, OPEN BURNING, AND BURNING OF REFUSE

SECTION

7-501. Purpose.
7-502. Definitions.
7-503. Open burning, outdoor burning and refuse burning prohibited.
7-504. Specific materials that may not be burned.
7-505. Burning leaves, brush, clean wood and other vegetative debris.
7-506. Exemptions to prohibited burning.
7-507. Permit required for certain burning practices.
7-508. Revocation of permits.
7-509. Owner liability.
7-510. Right of entry and inspection.
7-511. Enforcement.
7-512. Violations.

7-501. Purpose. This chapter is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living condition, safety and welfare of the citizens of the Town of Jonesborough from the air pollution and fire hazards resulting from open burning, outdoor burning and refuse burning. [Ord. of December 14, 1987, as replaced by Ord. #2005-19, Dec. 2005]

7-502. Definitions. 1. "Burn barrels" means metal or any noncombustible containers used to incinerate refuse or clean wood located typically in backyards or constructions sites.

2. "Campfire" means a small outdoor fire intended for recreation, ceremony or cooking not including a fire intended for disposal of wood waste or refuse.

3. "Clean wood" means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain glues as in plywood or other composite wood products.

4. "Outdoor burning" means open burning or burning in an outdoor wood fired furnace.

5. "Open burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the air without passing through a stack or chimney.

6. "Outdoor wood-fired furnace" means a wood fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

7. "Refuse" means any waste material except clean wood. [Ord. of December 14, 1987, as replaced by Ord. #2005-19, Dec. 2005]

7-503. Open burning, outdoor burning and refuse burning prohibited. No person, firm, or corporation shall cause, suffer, allow or permit open burning, outdoor burning, and refuse burning within the corporate limits of the Town of Jonesborough unless the burning is specifically permitted in this chapter. [Ord. of December 14, 1987, as replaced by Ord. #2005-19, Dec. 2005]

7-504. Specific materials that may not be burned. The following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incinerator or heating device.

1. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
2. Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to any state or federal restrictions.
3. Asphalt and products containing asphalt.
4. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
5. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
6. Rubber including tires and synthetic rubber-like products.
7. Newspaper, corrugated cardboard, container board, office paper and other similar materials that can be recycled with the following exceptions:
    a. Paper and cardboard products may be used as a starter fuel for a fire that is allowed under the ordinance, comprising this chapter.
    b. Small quantities of confidential papers from a residence may be burned if necessary to prevent theft of financial records, identification or other confidential information. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning. [Ord. of December 14, 1987, as replaced by Ord. #2005-19, Dec. 2005]

7-505. Burning leaves, brush, clean wood and other vegetative debris. Because the Town of Jonesborough has weekly pick-up of brush and yard wastes, open burning of leaves, weeds, brush, stumps, clean wood or other vegetative debris is prohibited. Upon receiving written authorization and a waiver of liability from the developer/owner, town crews are authorized to go on property being cleared for development to load and remove clean wood when

there is acceptable access for loading and the material is properly cut for collection. [as added by Ord. #2005-19, Dec. 2005]

7-506. Exemptions to prohibited burning. The following burning practices are specifically exempted from the prohibitions established in this chapter:

1. Small fires or camp fires for the cooking of food or for ceremonial or recreational purposes including barbeques and outdoor fireplaces. However, no material listed in § 7-504 may be burned in the exempted activity; and provided that any small open campfire is contained in a control device such as a fire ring or fire pit.

2. Fires set for the training and instruction of public firefighting personnel including civil defense and emergency management provided said fire training exercises are carried out within all state and federal standards and meet all fire code guidelines.

3. Fires set by or at the direction of a responsible fire control agency for the prevention, elimination or reduction of a fire hazard.

4. Outdoor wood-fired furnaces provided that the outdoor wood-fired furnace:

a. is not used to burn materials prohibited in § 7-504,

b. has a chimney that extends to a minimum height of fifteen (15) feet,

c. is not located within fifteen (15) feet of a property line or within any required setback areas between properties, whichever is greater

d. is not installed until the owner has obtained a permit from the fire major or his/her designee.

5. Fires used to clear land consisting solely of vegetation grown on the land for agriculture, forest or game management purposes, provided that any local, state or federal permits are obtained prior to the burning.

6. Burning of brush and vegetation resulting from land development or clearing under the following circumstances:

a. The volume of clean wood to be removed is more than it is reasonable for the town or the developer to remove in a timely manner and at a reasonable cost.

b. Access to the clean wood is not adequate and it is determined to be unreasonable to move the brush to be removed to a suitable collection location.

(c) The location of the burn site is a minimum of five hundred feet (500') from any residence or business, however, the fire major or public safety director has the discretion to approve a shorter distance when land topography, vegetation, etc. make it very unlikely that any residences or businesses nearby will be negatively impacted.

(d) Best management practices, as determined by the Jonesborough Fire Department, are followed to reduce the negative impact of smoke or potential fire damage.

(e) The exception is authorized by the fire major and/or public safety director. [as added by Ord. #2005-19, Dec. 2005, and amended by Ord. #2007-04, April 2007]

7-507. Permit required for certain burning practices. A burning permit must be obtained for the installation and use of an outdoor wood-fired furnace and land clearing burning as authorized in § 7-506(5) and (6).

1. Permit applications should be submitted at least forty-eight (48) hours in advance of the burning activity.

2. All permits issued hereunder shall terminate upon completion of the operation conducted thereunder or the expiration of a period designated in said permit not to exceed thirty (30) calendar days.

3. Any formal ban on burning issued by the state or federal authorities shall immediately void any permit issued for land clearing burning. [as added by Ord. #2005-19, Dec. 2005]

7-508. Revocation of permits. The public safety director, fire major, fire marshal or other designee are authorized to revoke any burning permit if a burning ban is implemented or if the burning practices undertaken are not consistent with the protections intended in the ordinance comprising this chapter to the health, safety and general welfare of the general public. [as added by Ord. #2005-19, Dec. 2005]

7-509. Owner liability. Any person, firm or corporation starting, utilizing or maintaining an outdoor fire shall be responsible for any or all suppression costs and any liability resulting from damage caused by the fire. [as added by Ord. #2005-19, Dec. 2005]

7-510. Right of entry and inspection. Public safety officers and firefighters, a fire marshal, or any authorized officer, agent or employee of the Town of Jonesborough when presenting proper credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. [as added by Ord. #2005-19, Dec. 2005]

7-511. Enforcement. The fire major or designee shall have primary enforcement responsibilities associated with this chapter including the issuance of burning permits when appropriate, however, the public safety director and any public safety officer and the fire marshal are authorized to initiate enforcement action when a violation occurs. In addition, the public safety director has the authority to review and approve any or all burning permits and

any exceptions being considered for appropriateness prior to issuance. [as added by Ord. #2005-19, Dec. 2005, and replaced by Ord. #2007-04, April 2007]

7-512. Violation. Any person, firm, association, corporation, or the agent thereof who shall fail, neglect or refuse to comply with the provisions of this chapter shall be guilty of a misdemeanor. [as added by Ord. #2005-19, Dec. 2005]

TITLE 8

HEALTH AND SANITATION[1]

CHAPTER
1. FOOD, DRUGS, DISEASES, ETC.
2. REFUSE.
3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
5. BOARD OF DWELLING STANDARDS AND REVIEW.
6. ILLICIT DISCHARGE AND ILLEGAL CONNECTION.

CHAPTER 1

FOOD, DRUGS, DISEASES, ETC.

SECTION
8-101. Health officer.
8-102. Adulterated food, drugs, and cosmetics.
8-103. Communicable diseases.
8-104. House trailers.
8-105. Smoke, soot, cinders, etc.
8-106. Stagnant water.
8-107. Weeds, overgrown and dirty lots.
8-108. Dead animals.
8-109. Health and sanitation nuisances.
8-110. Pollution of creeks.
8-111. Junkyards.

8-101. 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. [Code of 1982]

8-102. Adulterated food, drugs, and cosmetics. It shall be unlawful and a violation of this section for any person to violate within the Town of

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[1]For specific health and sanitation provisions elsewhere in this code with respect to the following, see the references indicated:

(1) Animals and fowls. Title 3.
(2) Littering streets, etc. § 12-103.
(3) Taxicabs. § 5-406.

Jonesborough any provisions of the state food, drug, and cosmetic laws. [Code of 1982]

8-103. Communicable diseases. When there exists or is suspected to exist in any household a communicable disease other than a venereal disease or a common childhood disease, it shall be the duty of any attending physician and the head or other responsible person in such household possessing knowledge of the facts immediately to notify the health officer. The health officer shall thereupon make such investigation and issue such quarantine orders as may reasonably be necessary to protect the public health. It shall be unlawful for any person to violate any such orders of the health officer. [Code of 1982]

8-104. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the town and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. [Code of 1982]

8-105. 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. [Code of 1982]

8-106. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. [Code of 1982]

8-107. Weeds, overgrown and dirty lots. (1) Prohibition. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his/her property, as well as the grass or weeds in the right-of-way between the property and the adjoining street. It shall be unlawful for any person to fail to comply with the order by the chief of police, code enforcement officer or court to cut such grass or vegetation when it has reached the height of over one foot (1'). 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 accumulation of debris, trash, litter, garbage or any combination of the preceding elements so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats, vermin or other harmful animals. Exempted from the one foot (1') height restriction for grass are properties used for agricultural purposes in which hay, straw, grass, etc. is cut and baled one (1) or more times a year,

except that the boundary line of such agricultural properties adjoining residential property shall have a minimum of a ten foot (10') cut border along the property line that must meet the one foot (1') maximum height restriction of this subsection. Also exempt are portions of properties that are designated as wetlands, required stream buffers, formal wildlife areas, and other intended natural areas in which the public health, safety and welfare of the general public are not impaired.

(2) Notice to property owner. It shall be the duty of the chief of police, code enforcement officer, or other person(s) as designated by the board of mayor and aldermen to serve notice upon the property owner of record in violation of subsection (1) above. Said notice shall instruct the owner of the violation and to bring his/her property under compliance within ten (10) calendar days. Notice may be given by:

(a) Posting notice in plain view on the property in violation.

(b) Sending notice by mail to the last known address available for the property owner of record.

(c) Removing or damaging a violation notice posted by the town on a property in violation is prohibited and a violation of this section.

The date the notice is posted or mailed shall serve as the beginning of the ten (10) day period allowing for corrective action.

(3) Notice content. The notice may be sent by U.S. Mail to the last known address of the owner of record. The notice shall include the following information:

(a) A statement outlining the provision of the municipal code regarding weeds, overgrown and dirty lots, and the requirement to take action to remediate the violation within ten (10) days from the date of the notice or to file a hearing request within the same ten (10) day period.

(b) The consequences of not taking immediate action to remedy the violation or filing a request for a hearing within the ten (10) days provided, including a cost-estimate for the town initiating a corrective action that remedies the conditions constituting a violation.

(c) The right to request a hearing before any corrective action is initiated by the town, using a form provided with the notice.

(d) The names of the person(s), department and office and address, telephone and email address of those people giving notice.

(4) Failure to take correction action. Failure by the property owner to take corrective action within the ten (10) days provided or to notify the proper persons within the ten (10) days provided of a request for a hearing shall constitute a violation and the chief of police, code enforcement officer or other person(s) designated by the board of mayor and aldermen may take action using town staff or may engage a contractor to undertake the corrective action on the property in violation that will bring the property into compliance with this section.

(5) Penalty. (a) Violations of § 8-107 are subject to fines not to exceed five hundred dollars ($500.00) per occurrence and each day of violation shall be considered a separate violation.

(b) Failure by the property owner to take corrective action may also result in the town:

(i) Citing the owner into court.

(ii) Arranging a mowing contractor to go on the property in violation and abate the violations. The property owner will be billed for the contractor's service using a pre-determined method of determining the assessment cost including contracted work and administrative costs that is also approved by the board of mayor and aldermen by separate action. The property owner will be given thirty (30) days to pay the invoice for the corrective action, and after thirty (30) days if any of the amount invoiced remains unpaid, a penalty will be added to the cost of the abatement along with one and one-half percent (1-1/2%) interest per month until the invoice, penalty, and interest is paid. If the bill is five hundred dollars ($500.00) or more, the amount owed will be added to the property taxes on the property in violation as a lien.

(c) Failure by the owner to take any action required in municipal court may result in the town initiating an injunction, writ of mandamus, or court order to ensure corrective measures are taken.

(6) Continued violations. Any owner of record of real property that is currently in violation of subsection (1) above that has previously received a notice of violation of subsection (1) above for the same property on two (2) or more occasions may be issued a citation for an additional violation of subsection (1) above without notice.

(7) 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 town charter, the 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 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 provision of the municipal code of ordinances or any other applicable law. [Code of 1982, as replaced by Ord. #92-09, July 1992; amended by Ord. #95-07, Sept. 1995, and replaced by Ord. #2019-10, Sept. 2019 ***Ch13_03-08-21***]

8-108. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same, prepare it for disposal as provided in § 8-216, or notify the health officer and dispose of it in accordance with his directions. [Code of 1982]

8-109. 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. [Code of 1982]

8-110. Pollution of creeks. It shall be unlawful for any person to pollute any creek running through the town by putting therein or allowing to go therein sawdust from any saw mill located in the town or to place in any creek any trash or substance of any kind which would impede or obstruct the flow of such stream. [Ord. 34 of April 16, 1906, § 1]

8-111. Junkyards.[1] All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(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. [Code of 1982]

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[1]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 1961 case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W. 2d 818.

CHAPTER 2

REFUSE

SECTION

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8-201. Premises to be kept clean. All persons, firms and corporations within the town limits of the Town of Jonesborough are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of

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[1]This section is not included in the previous ordinance or the replacing ordinance.

refuse, offal, filth and trash, except when stored as provided in this chapter. [Ord. of Dec. 11, 1979, § 101, as by Ord. #2016-05, April 2016 ***Ch12_04-09-18***]

8-202. Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given in this section:

(1) "Ashes." Any and all residue resulting from the combustion of coal, wood or other foreign matter, material or substances in domestic, industrial or commercial stoves, furnaces or boilers.

(2) "Authorized residential containers." For automated waste collection only, thirty (30), sixty-five (65) or ninety-five (95) gallon universal rollout carts as provided or sold by the Town of Jonesborough.

(3) "Bulk container." A front-end loading, enclosed, metal, dumpster type container having a capacity of not less than four (4) cubic yards nor greater than eight (8) cubic yards. Such containers shall have the capacity, size and be the type specifically authorized and approved by the director of solid waste and recycle.

(4) "Construction waste/building material." Any material such as lumber, brick, block, carpet, stone, plaster, concrete, asphalt, roofing shingles, gutters, flooring, carpeting, or other substances accumulated as the results of repairs or additions to existing buildings or structures, or as the result of construction of new buildings or structures.

(5) "Cuttings." All tree limbs, trimmings, shrubbery, etc.

(6) "Garbage." Putrescible animal and vegetable waste, liquid or other waste resulting from the handling, processing, preparation, cooking and consumption of food, and all cans, bottles or other containers originally used for foodstuffs.

(7) "Garden refuse." All accumulations of plants, stems, roots, vegetables and fruits remaining after harvest.

(8) "Hazardous refuse." Any chemical compound, mixture, substance, refrigerant or article which may constitute a hazard to health or may cause damage to property by reason of being explosive, flammable, poisonous, corrosive, unstable, irritating, radioactive, infectious, or otherwise harmful. It shall include anything listed as harmful or restricted by the state or federal government.

(9) "Industrial waste." All such wastes peculiar to industrial, manufacturing or processing plants and shall include hazardous refuse.

(10) "Infectious wastes." Wastes which contain pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. For purposes of this policy, the following wastes shall be considered to be infectious wastes:

(a) Human blood and blood products. Waste human blood and blood products such as serum, plasma, and other blood components.

(b) Pathological wastes. Pathological wastes, such as tissues, organs, body parts, and body fluids.

(c) Contaminated sharps. All discarded sharps (e.g., hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in patient care or which have come into contact with infectious agent during use in medical, research, or industrial laboratories.

(d) Contaminated animal carcasses, body parts, and bedding. Contaminated carcasses, body parts (including fluids), and bedding of animals that were intentionally exposed to pathogens in research, in the production of biological, or in the in vivo testing of pharmaceuticals.

(e) Facility-specified infectious wastes. Other wastes determined to be infectious by a written facility policy.

(11) "Multi-family dwelling." A building or buildings containing six (6) or more dwelling units whose primary purpose is for leasing or renting dwelling space to the public.

(12) "Refuse." Includes garbage, rubbish, leaves, brush, rocks, concrete, bricks and all other putrescible and non-putrescible, combustible and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce, and other similar unwanted materials, but shall not include sewage, body wastes, recognizable industrial or medical by-products, from all residences and establishments, public and private.

(13) "Residential solid waste." Solid waste resulting from the maintenance and operation of dwelling units, excluding multiple housing facilities using dumpsters.

(14) "Residential user." Any user in a dwelling unit or whose property is zoned for residential purposes.

(15) "Rubbish." All non-putrescible waste materials except ashes from all public and private residences and establishments.

(16) "Tote or tote-cart." A container with wheels holding up to ninety-six (96) gallons with a lid that has enough structural strength to be picked and unloaded mechanically.

(17) "Yard wastes." Grass clippings, leaves, tree, and shrubbery trimmings. (Ord. of Dec. 11, 1979, as amended by Ord. #91-06, Oct. 1991, Ord. #B-05-01, June 2005, Ord. #B-06-01, July 2006, Ord. #B-09-01, July 2009, Ord. #B-11-02, June 2011, Ord. #B-12-02, June 2012, Ord. #B-13-02, June 2013, and Ord. #B-14-02, June 2014, and replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***)

8-203. Purpose. This chapter is determined and declared to be a sanitary measure for the protection and promotion of the health, safety and welfare of the

citizens of the Town of Jonesborough. [Ord. of Dec. 11, 1979, § 103, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-204. Responsibility for administration. (1) The solid waste and recycle director shall have the authority to make and modify guidelines and requirements as necessary concerning the days of collection, location of containers, and such other matters pertaining to the collection, transporting and disposal of solid waste refuse; provided that such guidelines and requirements are not in violation of the provisions in this chapter.

(2) The solid waste and recycle director shall be responsible for the oversight of the provisions in this chapter. [Ord. of Dec. 11, 1979, § 104, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-205. Collection of garbage and refuse. All refuse accumulated within the corporate limits shall be collected, conveyed, disposed, and transported under the jurisdiction of the solid waste and recycle department. Except as designated in this chapter, garbage collections shall be made regularly in accordance with an announced schedule. Other solid waste collections will take place as needed.

(1) Items prohibited from pickup shall include, but not limited to, rocks, dirt, bricks, concrete, and construction waste unless approved by the director of solid waste and recycle.

(2) Bulky items shall be collected each week (to the extent possible), which requires the home owner to call and schedule the bulky items to be collected. The town shall not be responsible for the removal of central heat and air systems or other commercially installed appliances.

(3) All refuse (including garbage and rubbish) as heretofore defined shall be collected sufficiently frequently to prevent the occurrence of nuisances and public health problems, except material identified in § 8-205(7). The collection of refuse within the Town of Jonesborough shall be under the jurisdiction of the solid waste and recycle department.

(4) All residents will be provided with one (1) ninety-five (95) gallon collection tote per household to properly store one (1) week's accumulation of refuse (including garbage and rubbish). Additional totes can be purchased from the town at the owners' expense, and additional totes are subject to current collection rates.

(5) Businesses or multi-family dwellings using regulation trash totes for collection shall provide sufficient containers to properly store one (1) week's accumulation of refuse. Any business or multi-family dwelling requiring six (6) or more regulation trash totes for weekly service shall be required to acquire regulation bulk containers for service, unless specifically exempted by the solid waste and recycle director due to non-correctible space and collection restrictions.

(6) Bulk containers for normal garbage and rubbish collection must be provided at the owner's/business' expense. Bulk containers not purchased

through the town must be approved for use by the solid waste and recycle director.

(7) The Town of Jonesborough does not provide or collect "roll-off" containers for the short-term collection of construction waste/building material and rubbish associated with construction projects. Developers, contractors, etc. may select a provider of roll-off container service during construction projects, however, any placement of said roll-off container on town right-of-way during a construction project must be approved in advance by the solid waste and recycle director with any assistance from public safety needed in determining vehicular and pedestrian safety in the location of the container, any public nuisance to surrounding properties, and possible damage to or littering of the town right-of-way.

The solid waste and recycle department shall not be obligated to provide service where adequate containers are not provided. [Ord. of Dec. 11, 1979, § 105, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-206. Collection vehicles/equipment. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that leakage of liquids draining from the refuse onto the streets and alleyways will be minimal. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings when necessary that effectively prevent the scattering of refuse over the streets or alleys. [Ord. of Dec. 11, 1979, § 106, as amended by Ord. #91-06, Oct. 1991; Ord. #95-09, Sept. 1995; Ord. #98-02, § 2, Jan. 1998; and Ord. #99-06, May 1999, and replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-207. Disposal of garbage and refuse. (1) The disposal of refuse in any quantity by any person, householder, establishment, firm, or corporation in any place, public or private, other than at the site or sites in the proper manner designated by the town and/or, if required, with properly approved permits from the Tennessee Department of Environment and Conservation/Division of Solid Waste is expressly prohibited.

(2) The weight of contents placed in town provided totes shall not exceed seventy-five (75) pounds, and garbage placed in totes shall be drained of all free liquids.

(3) All containers, household and mechanical, shall be cleaned as needed by the owner to prevent offensive smells and unsanitary conditions.

(4) The disposal of refuse collected in households, businesses or other such establishments in bulk refuse containers located within the corporate limits of the Town of Jonesborough without the permission of the container owner is prohibited.

(5) The disposal of refuse collected in households, businesses or other such establishments located outside the corporate limits of the Town of

Jonesborough in bulk refuse containers owned by the Town of Jonesborough without there being town authorized signage allowing the disposal of the specific refuse, is prohibited. [Ord. of Dec. 11, 1979, § 107, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-208. Accumulation of refuse and location of containers. (1) Each owner, occupant, tenant, sub-tenant, lessee or others, using or occupying any building, house, structure, or grounds within the corporate limits of the Town of Jonesborough where refuse materials or substances as defined in this chapter accumulate, or are likely to accumulate, shall provide and keep covered an adequate number of suitable containers of a type approved by the director of solid waste and recycle for the storage of such refuse that are rodent and insect proof.

(2) Any tote or bulk container used for collection that is not provided through the Town of Jonesborough must be approved by the solid waste and recycle director in advance of use and expected pick-up by the town.

(3) Tote-carts may be authorized for use by businesses and multi-family units in which a bulk container would normally be required but space limitations and access restrictions prevent more typical and normal collection. Alternative collection procedures may be authorized by the solid waste and recycle director in applications like the historic downtown area where the collection of any kind of container is extremely limited. Alternative collection procedures may include totes to be returned to their storage location within a very short time period after collection in order to keep them out of high pedestrian areas, or requiring garbage to be carried a reasonable distance to a central collection location for pick-up. [Ord. of Dec. 11, 1979, § 108, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-209. Location of containers. (1) Where alleys are used by the town refuse collectors, containers shall be placed on or within three feet (3') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Except in the downtown business district where alternative collection procedures may be in effect, containers shall be placed adjacent to and back of the curb or adjacent to and back of ditch or street right-of-way if there is no curb, at times scheduled by the town for the collection of refuse therefrom. For other town garbage customers, refuse containers shall be placed near the edge of the customer's street no earlier than 5:00 P.M. the evening before the scheduled collection day. Citizens are also encouraged to remove their containers by 7:00 P.M. on collection day. However, all containers shall be removed by 12:00 P.M. (noon) the day after the scheduled pick-up.

(2) Containers should be removed by the owner to within or to the rear of his or her premises and away from the street line or right-of-way before the end of the day on the day the containers are emptied, or containers may be left at the edge of the street; provided that they are completely screened in a manner suitable to the director of solid waste and recycle. Screening of collection containers along the public right-of-way must also be approved by the historic

zoning commission if the container(s) are within the historic district. Containers removed may be returned after 5:00 P.M. the evening before the next scheduled collection day.

(3) Garbage and refuse shall not be stored in close proximity to other personal effects which are not desired to be collected on the scheduled day of collection, but shall be reasonably separated in order that the sanitation collectors can clearly distinguish between what is to be collected and what is not. Personal effects stored, piled, or placed within three feet (3') of a container or pile of trash set out for collection shall be prima facie presumed to be garbage or trash.

(4) Buildings, apartments, or other premises where refuse accumulates that require more than six (6) or more regulation tote containers for weekly service shall be required to acquire regulation bulk containers for service, unless specifically exempted by the solid waste and recycle director and alternative collection is available. [Ord. of Dec. 11, 1979, § 109, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-210. Disturbing of 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. [Ord. of Dec. 11, 1979, § 110, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-211. Brush, lawn clippings, tree limbs, etc. (1) Tree trimmings, hedge clippings, yard waste and similar materials will be collected by the town on a regular schedule under the following conditions:

(a) Brush and limbs set out for collection that have a diameter of three inches (3") or less must not exceed six feet (6') in length.

(b) Brush and limbs that have a diameter of more than three inches (3") must not exceed four feet (4') in length.

(c) Brush shall be placed parallel to the street at the town's right-of-way with the larger ends placed in the same direction. Brush shall not be placed on street pavement and must be placed at the edge of the property on which it was generated and gathered unless there is an alternate location approved by the director of solid waste and recycle or the town administrative staff. Brush shall not be placed on street pavement and must be placed at the edge of the property on which it was generated and gathered unless there is an alternate location approved by the director of solid waste and recycle or the town administrative staff.

(d) Brush or debris shall not be placed in or hanging over the street. Brush placed in the right-of-way may not be placed where it may cause safety issues, possible damage to vehicles, blockage of sidewalks or drainage ways, or other similar problems. Brush placed in the right-of-way may not be placed where it may cause safety issues, possible damage to vehicles, blockage of sidewalks or drainage ways, or other similar problems.

(e) Brush, tree limbs, yard waste, etc. must be set out for collection completely separate from any other refuse including boards, posts, or other such processed wood construction material. Brush, tree limbs, yard waste, etc. must be free of wire, cable, fencing or any other similar material.

(2) To the extent possible, the town will try and collect brush on a weekly schedule; however, the schedule is not guaranteed and will occur as time permits.

(3) Tree trimmings, hedge clippings, and other yard-waste material generated as a result of work undertaken by a contractor must be collected, conveyed, and hauled away by the contractor or homeowner. [Ord. of Dec. 11, 1979, § 111, as amended by Ord. 91-06, Oct. 1991, Ord. #92-08, Jan. 1992; Ord. #98-02, §§ 3 and 4, Jan. 1998; and Ord. #98-05, § 1 May 1998, replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***, and amended by Ord. #2016-13, Oct. 2016 ***Ch12_04-09-19***]

8-212. Leaves. Leaves may be placed in plastic bags. During leaf season, normally November - mid January, leaves may be raked to the edge of a town street to be picked up by the town's leaf vacuum. Leaves raked to the street must be neatly placed in a pile as close to the street as possible without being placed on the pavement or the sidewalk. Leaves shall be placed at the edge of the property from which they were gathered, unless there is an alternative location approved by the Jonesborough Director of Solid Waste and Recycle or the town administrative staff. [Ord. of Dec. 11, 1979, § 112, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***, and amended by Ord. #2016-13, Oct 2016 ***Ch12_04-09-19***]

8-213. Discarded construction waste/building material. The Town of Jonesborough will not be responsible for the removal of any construction waste/building material, as defined in § 8-202(4). The removal and disposal of such materials shall be the responsibility of the contractor, developer, or property owner. [Ord. of Dec. 11, 1979, § 113, as replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-214. Hazardous waste/refuse. No hazardous waste/refuse shall be placed in any receptacle, container, or unit used for normal refuse collection by the town. The collection and disposal of such refuse shall be the responsibility of the owner, lessee, occupant, or producer under guidelines established by the Tennessee Department of Environment and Conservation. (Ord. of Dec. 11, 1979, as amended by Ord. #91-06, Oct. 1991, Ord. #B-06-01, July 2006, Ord. #B-09-01, July 2009, Ord. #B-11-02, June 2011, Ord. #B-12-02, June 2012, Ord. #B-13-02, June 2013, and Ord. #B-14-02, June 2014, and replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***)

8-215. Industrial waste. The collection of and disposal of industrial waste shall be the responsibility of the owners, lessee, occupant or producer.

[Ord. of Dec. 11, 1979, § 115, as replaced by Ord. # 98-02, § 1, Jan. 1998, and Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-216. Dead animal and fowls. The Town of Jonesborough will collect/pick-up only small dead animals and fowls that have been placed in an appropriately sized plastic bag container and sealed before being deposited for collection. Only bags weighing fifty (50) pounds or less will be collected by the town. [as added by Ord. #91-06, Oct. 1991, and replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-217. Appliances and other bulky items. Stoves, refrigerators, household furniture, box springs and mattresses and similar bulky refuse will be collected by the town on a routine schedule under the following conditions:

(1) There are no more than three (3) bulky items set out by a resident or business at one (1) time for collection.

(2) The bulky items set out for collection are properly placed in the right-of-way next to but not on the asphalt.

(3) The resident or business calls town hall during regular business hours a minimum of one (1) day in advance to request the items are picked up, providing a description of item(s) to be collected and the location.

(4) The items are not considered any form of hazardous or monitored refuse.

(5) The town has an operating collection vehicle capable of picking up the bulky items set out for collection.

The town reserves the right not to pick up large bulky items if one (1) or more of the items or their placement for collection do not meet the limitations listed above. The placement along the town right-of-way of more than three (3) bulky items at one (1) time at one (1) location is prohibited without prior authorization from the director of solid waste. Violations are subject to the maximum fine schedule allowed by the town, with each day being a separate violation. Apartments, multi-family units, non-residential units, and persons with a number of bulky items for collection are required to reserve an overnight vehicle based on criteria established in § 8-226, if collection services of the town are being requested. The owner/resident is responsible for properly loading all items into the town vehicle when overnight service is requested. [as added by Ord. #94-03, Jan. 1994, and replaced by Ord. #94-14, Nov. 1994, Ord. #2016-06, July 2016 ***Ch12_04-09-19***, and Ord. #2017-04, June 2017 ***Ch12_04-09-19***]

8-218. Bulk mechanical/commercial collection procedures; containers.

(1) Large bulk collection containers handled mechanically by a garbage truck must be located for easy accessibility by the collection vehicle in a position approved by the director of solid waste and recycle, and screened from view on at least three (3) sides with a gate on the fourth side in a manner that eliminates unsightliness and is acceptable to the director of solid waste and recycle.

(2) Screening of collection containers must also be approved by the historic zoning commission if the container(s) is within the historic district.

(3) It is the responsibility of the owner to see that all refuse collected mechanically is placed in collection containers and not placed on top or around the container and the area shall be maintained in a clean, neat and sanitary condition.

(4) All bulk containers (dumpsters) shall be enclosed containers. Before any such container shall be serviced by the town, it shall specifically be approved by the director of solid waste and recycle as to capacity, size, type and location. No container (dumpster) shall exceed eight (8) cubic yards capacity nor be smaller than four (4) cubic yards capacity. [as added by Ord. #93-01, March 1993, renumbered by Ord. #95-01, Jan. 1995, and replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-219. Mechanical collection fees. Dumpster and mechanical collection fees are established on an annual basis by the board of mayor and aldermen as a component of the garbage collection rates ordinance, passed as part of the budget process. [as added by Ord. #93-01, March 1993, renumbered by Ord. #95-01, Jan. 1995, and replaced by Ord. #2016-06, July 2016 ***Ch12_04-09-19***, and Ord. #2017-04, June 2017 ***Ch12_04-09-19***]

8-221. Automated tote collection - contents. (1) Totes must not contain hot ashes, liquids, paints, tires, large animal carcasses or parts, household hazardous waste or automobile parts.

(2) Any and all animal waste must be double bagged prior to placing it inside the tote.

(3) Total weight of cart and contents shall not exceed seventy-five (75) pounds. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-222. Replacement totes. (1) Totes which are assigned to individual household(s) and businesses remain the property of the Town of Jonesborough. Totes removed from such location when assigned will be considered stolen and (unless prior notification was discussed with the director of solid waste and recycle) appropriate action will take place through applicable courts of law.

(2) Any tote that is lost, stolen or damaged by the user shall be replaced by the user at the user's own expense.

(3) Additional totes may be purchased from the solid waste department and shall be owned by the purchaser. Additional totes purchased for collection are subject to the fee structure established by the town. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-223. Recycling - definitions. For the purpose of this chapter, the following terms, phrases, words and their derivatives associated with recycling shall have the meanings given in this section:

(1) "Aluminum cans." A container for packaging made primarily of aluminum. It is commonly used for foods and beverages but also for products such as oil, chemicals, and other liquids.

(2) "Comingled." Mixed recyclable materials of several types that are collected together.

(3) "Compost." The stabilized product of decomposition of organic materials such as food scraps, yard trimmings, or manure that is used as a soil amendment, artificial top soil, growing medium amendment, or similar use.

(4) "Diversion."

(a) The act of reducing material from disposal.

(b) The waste reduction practice that captures materials that are normally destined for disposal.

(5) "Glass." Glass bottles and jars (clear, brown, and green only).

(6) "Materials recovery facility." The term "materials recovery facility" shall mean the operation at the Pliny Fisk Recycling Center in Jonesborough that processes recyclable materials collected from residential and commercial business sources by sorting, baling, and crushing for the purpose or recycling them.

(7) "Mixed paper." Recovered paper that is not sorted into specific categories including junk mail, magazines, box board, telephone books, wrapping paper, office paper, newspapers and other paperboard products.

(8) "Old corrugated cardboard." Heavy-duty paper of various strengths, ranging from a simple arrangement of a single thick sheet of paper to complex configurations featuring multiple corrugated and corrugated layers.

(9) "Plastic." A material consisting of any of a wide range of synthetic or semi-synthetic organics that are malleable and can be molded into solid objects of diverse shapes. Plastics are typically organic polymers of high molecular mass, but they often contain other substances.

(a) "Plastic #1." The term "PET" or "PETE" shall mean post-consumer polyethylene terephthalate (PET or PETE) containers are sorted into different color fractions, and baled for onward sale. PET recyclers further sort the baled bottles and they are washed and flaked (or flaked and then washed). Non-PET fractions such as caps and labels are removed during this process.

(b) "Plastic #2." The term "HDPE" shall mean high-density polyethylene (HDPE) is a commonly recycled plastic. It is typically down cycled into plastic lumber, tables, roadside curbs, benches, truck cargo liners, trash receptacles, stationery (e.g. rulers) and other durable plastic products and is usually in demand.

(10) "Recycling." A process to convert waste material into reusable material to prevent waste of potentially useful materials, reduce the consumption of fresh raw materials, reduce energy usage, reduce air pollution (from incineration) and water pollution (from land filling) by reducing the need for "conventional" waste.

(11) "Recyclable material." Material that has been recovered or diverted from the non-hazardous solid waste stream for purpose of reuse,

recycling or reclamation and a substantial portion of which is consistently used in the manufacture of products, which may otherwise be produced using raw or virgin materials.

(12) "Single-stream recycling." Also known as "fully comingled" or "single-sort recycling" means a system in which all paper fibers and containers are mixed together in a collection truck/vehicle, instead of being sorted into separate commodities (i.e. paper, plastic, glass, metal/tin cans, aluminum cans, and cardboard) and handled separately throughout the collection process. In single stream recycling system, both the collection and processing systems are designed to handle this fully comingled mixture of recyclables.

(13) "Tin/metal cans." Containers consisting of two (2) or more metals (i.e. tin-coated steel cans used in food packaging). [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-224. Recycling - service and location. (1) Jonesborough offers a curbside recycling program, with pick-up normally once a week on the same day as tote collection is normally undertaken. If the tote collection date is changed due to a holiday, recycling collection will change as well.

(2) The town shall provide one (1) recycling bin per residence, dwelling, unit or business. This bin remains the property of the town. Additional recycling bins may be purchased from the town and remain the property of the owner.

(3) Curbside recycling service shall begin at 7:00 A.M.

(4) Residents shall be responsible for placing their recycling containers at the curb for servicing by the time the collection vehicle is scheduled to collect.

(5) Recycle containers not out for collection as scheduled will not be collected until the next regular recycle collection day.

(6) All materials placed at the curb for recycling shall be placed in the proper recycling container(s), or otherwise in a manner so as to keep it from being carried, scattered, or deposited by the elements upon streets, sidewalks, or other property.

(7) All recyclable container(s) shall not be placed on the curb prior to 7:00 P.M. the day prior to scheduled collection, and shall be removed from the curb on the same day they are serviced.

(8) Recyclables placed in the recycling bins must meet guidelines established for Jonesborough's recycling program, including, but not limited to, the following:

(a) Metal and plastic food containers to be recycled must be rinsed so to be free from food residue that will attract rodents and insects.

(b) Material must be recyclables Jonesborough collects.

(c) Food boxes and other cardboard type containers must be collapsed flat for collection.

(d) Newspaper and paper material must be stacked flat.

(e) Bottle lids must be removed. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-225. Recycling-incentive program. The "incentive program" is designed to recognize and reward residential customer(s) with a discount, currently two dollars ($2.00), on their monthly garbage collection fee if they participate in the volunteer recycling program, at least two (2) collection days per month. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-226. Overnight truck parking. Overnight truck parking, if available, can be taken to properties within the town limits of the Town of Jonesborough and left to be filled with refuse as defined in § 8-202 and on the following basis:

(1) The truck is available.

(2) The truck is requested for use within the corporate limits.

(3) The established overnight truck fee is paid prior to truck being parked.

(4) No brush, tree limbs, yard waste, tires, or hazardous wastes are placed in the overnight truck.

(5) The truck is parked where the owner requests, but also in a location approved by town staff.

(6) The fee schedule for overnight vehicle refuse collection service is established annually as a component of the garbage collection rate ordinance passed as part of the budget process. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***, and amended by Ord. #2017-04, June 2017 ***Ch12_04-09-19***]

8-227. Exclusive right of collection. It shall be unlawful for any person other than the town to engage in the business of collecting, removing or disposing of refuse in the town except when specifically authorized by the town. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-228. Violations and enforcement. The director of solid waste and recycle will be responsible for noting all violations of this chapter and providing the town administrator or operations manager with such information as necessary to act against these violations.

Violations of this chapter shall be punishable by a penalty of fifty dollars ($50.00) for each offense, or the maximum allowed by state law, with each day in violation being a separate offense. Non-payment of fees will be cause for the town to discontinue collection/disposal services. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

8-229. Variances. Variances from this chapter may be approved by the board of mayor and aldermen on an individual basis. [as added by Ord. #2016-06, July 2016 ***Ch12_04-09-19***]

CHAPTER 3

SEWAGE AND HUMAN EXCRETA DISPOSAL[1]

SECTION

8-301. Definitions.
8-302. Places required to have sanitary disposal methods.
8-303. When a connection to the public sewer is required.
8-304. When a septic tank shall be used.
8-305. Outdoor toilet facilities.
8-306. Owner to provide disposal facilities.
8-307. Occupant to maintain disposal facilities.
8-308. Only specified methods of disposal to be used.
8-309. Enforcement.
8-310. Correction of violations noted.
8-311. Violations.

8-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within one hundred feet (100') of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried wastes from residences, buildings, or industrial establishments, containing human excreta.

(5) "Approved septic tank." A watertight covered receptacle of impervious material, of which the location, construction, and method of disposal of effluent have been approved by the health officer of the state, constructed according to plans furnished by the state's health officer or the following specifications:

(a) The length of the tank, from inlet to outlet, shall be not less than one and one-half (1-1/2) times the width and the effective depth, from the water level to the bottom of the tank, shall be not less than four feet (4').

(b) The capacity shall be determined by the amount of sewage to be treated, but no tank shall have effective capacity of less than sixty

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[1]See title 13 in this code for provisions relating to the administration and operation of the sewer system.

(60) cubic feet; an addition of eight (8) cubic feet shall be made for each person in excess of six (6), this rule to be applied up to a total of twenty-five (25) persons. The inlet and outlet pipes shall be located in opposite ends of the tank, at approximately the same elevation or with the inlet slightly higher, and the open ends inside the tank shall be submerged by use of a T or quarter bend.

(c) The tank shall have a tight, substantial cover, provided with manholes for cleaning, and tight fitting manhole covers. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply.

(6) "Other approved method." Any chemical toilet or other toilet device (other than a sanitary sewer or septic tank as described above) the type, location, and construction of which have been approved by the health officer. [Ord. of May 12, 1930, § 1, modified]

8-302. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits of the police jurisdiction of the Town of Jonesborough shall be required to have a sanitary method of disposal of sewage and human excreta as required by this chapter. [Ord. of May 12, 1930, § 2]

8-303. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, flush closets shall be provided, the wastes from such closets shall be discharged through a proper connection to said sewer, and on any lot or premises provided with a connection to the sewer, no other method of human excreta disposal shall be employed.

When making sanitary sewer extensions within the town, the board of mayor and aldermen determines that it is in the best interest of the town to waive mandatory connection as stated above when sanitary sewer service is available, then the board upon majority vote may issue a project waiver on said mandatory connections. Such waivers shall be granted to only those household units that are not in violation of local and state public health regulations. [1982 code, § 8-303, as amended by ord. passed July 12, 1983]

8-304. When a septic tank shall be used. Wherever flush closets are installed and their use permitted by the health officer, and an accessible sewer does not exist, the wastes from such closets shall be discharged into an approved septic tank. [Code of 1982]

8-305. Outdoor toilet facilities. It shall be unlawful for any person within the town to use or keep any outdoor toilet facilities, or use, own, operate, or maintain any such toilet facilities for the disposal or deposit of human waste of any nature or character, which facilities are not connected, in an approved

manner, with the sanitary sewer system of the town. The further use of such type of toilet facilities not connected with the sanitary sewer system of the town, whether such person be the owner or tenant of the premises involved, is prohibited.

All such toilet facilities now in use or in existence shall be dismantled and removed, and any openings or pits in the ground or otherwise shall be covered with at least two feet (2') of dirt. [Ord. of March 10, 1955, §§ 1 and 2]

8-306. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary human excreta disposal are required by this chapter, to provide such facilities. [Ord. of May 12, 1930, § 6]

8-307. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for human excreta disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. [Ord. of May 12, 1930, § 7]

8-308. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of except by a sanitary method of disposal as specified in this chapter. [Ord. of May 12, 1930, § 8]

8-309. Enforcement. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta at least twice each year.

Written or verbal notification of any violation of this chapter shall be given by the health officer to the person or persons responsible under this chapter for the correction of the condition, and correction shall be made within ten (10) days after notification. [Ord. of May 12, 1930, § 9]

8-310. Correction of violations noted. If the provisions of this chapter have not been complied with within ten (10) days following the date of notification of the violation, the Town of Jonesborough shall have the right to make or have made such changes or corrections as are deemed necessary by the health officer to meet the requirements of this chapter. The cost of changes and corrections necessary to meet the provisions of §§ 8-302 and 8-306 of this chapter shall be charged to the owner. The cost of changes and corrections necessary to meet the provisions of § 8-307 of this chapter shall be charged to the occupant. [Ord. of May 12, 1930, § 10]

8-311. Violations. Any person, firm, association, or corporation, or the agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor. [Ord. of May 12, 1930, § 11]

CHAPTER 4[1]

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

8-401. Definitions.
8-402. Standards.
8-403. Requirements for premises served.
8-404. Cross-connections, etc., unlawful; exception.
8-405. Statements required.
8-406. Guidelines for preventing cross-connection contamination.
8-407. Right of entry; furnishing of information.
8-408. Time for compliance.
8-409. Use of protective devices.
8-410. Un-potable water to be labeled.
8-411. Violations.
8-412. Severability.
8-413. Cross-connection control administrator.

8-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source not approved by the division of water recourses or the Town of Jonesborough.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of device.

(3) "Certified backflow inspector." An individual that has completed the special training and demonstration of competency in the installation and testing of backflow prevention devices by the State of Tennessee, and attends and completes current criteria set forth by the State of Tennessee for renewal of his/her current certification in installation and testing of backflow prevention devices.

(4) "Cross-connection." Any physical connection whereby the public water supply is connected with any other water supply system whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangements.

(5) "Cross-connection control administrator." The individual designated in the Town of Jonesborough to direct and oversee the rules and

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[1]See title 13 in this code for provisions relating to the administration of the water and sewer systems.

regulations of Jonesborough's cross-connection program, and be responsible for the enforcement and compliance with said program.

(6) "Double Check Detection Assembly (DCDA)." A specially designed unit that includes a line size approved double check valve with a specific bypass line equipped with a small water meter and a three-fourths inch (3/4") double check valve assembly. This assembly is designed for un-metered fire lines, and the meter will detect small leakage or theft of water through the fire line.

(7) "Degree of hazard." An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(8) "Health hazard." An actual or potential threat of contamination of a physical or toxic nature to the public potable water system.

(9) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a piping system such as, but not limited to: sewer, drain, conduit, pool, storage reservoir, auxiliary intake, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(10) "Non-toxic." Not poisonous; a substance that will not cause illness or discomfort if consumed.

(11) "Parallel devices." Two (2) devices side by side with approved plumbing to keep water from being shut off during repair or replacement; this is used where water service cannot be discontinued.

(12) "Person." Any and all persons, including any individual firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(13) "Post Indicator Valve (PIV)." The PIV is a control valve whereby the fire department or maintenance personal can quickly turn off the sprinklers in cases where the building is inaccessible. It gives the sprinkler company, fire department or maintenance personnel a means to turn off the system without having to contact the water department. The post indicator portion is an above ground device bolted on top of the sprinkler control valve. The control nut, wrench, and indicator are visible from the street. The purpose of the design is that the mechanism can be found quickly and because it shows open or closed at a glance, the state of the system is known instantly.

(14) "Public water system." The waterworks system furnishing water to the Town of Jonesborough for general use and which supply is recognized as a public water supply by the Tennessee Department of Environment and Conservation.

(15) "Reduced Pressure (RP) or Reduced Pressure Zone (RPZ)." This type device is used for high hazard cross-connections. It is comprised of two (2) separate check valves with a zone between the two (2) check valves.

The zone and relief valve assembly in a RPZ device acts as both a fail indicator and a pressure vacuum breaker of sorts. A check valve when working correctly allows water to travel through it one (1) way only, toward the customer

and that is all. However, when the first check valve fails on a RPZ device, something different happens. Simply put if it is failing it cannot hold against backpressure or backflow so another way of saying that is when the first check valve fails the pressure between the (zone) or customer's side of the check valve and the (inlet) or town side of the first check valve equalizes. This causes the relief valve within the zone, which is comprised of a spring that is pushing with a force of 2-psi to open the relief valve spilling water out of the bottom of the unit. When it reaches the ranges of 2-psi it starts to open when the differential reaches 0-psi the relief valve will be fully open. This not only causes quick action by the owners of an establishment to expedite repairs. In addition, it will cause the pressure to drop within the zone area even further exponentially which is, in a sense, self-regulating because the pressure on the customer's side of the first check valve or (zone) is then always going to be lower than the pressure on the town side of the first check valve or (inlet). Simply put, it makes it less likely backflow can occur until repairs are undertaken. Finally, the second check valve merely acts as a redundant backup for the first check valve. It is the first line of defense against backflow from the customer side however it does not have the abilities that the aforementioned accompanying relief valve offers.

(16) "Reduced Pressure Detector Assembly (RPDA)." An assembly composed of a line-size approved pressure principle backflow prevention unit with a bypass containing a water meter and a reduced principle backflow prevention assembly. The meter registers accurately at very low rates of flow, and the unit is used to protect against high health hazard such as anti-freeze or chemical suppression foam from fire vehicles that may be drawn or siphoned back into the water system. RPDAs must be installed per the manufacturers' instructions and be inspected. It is primarily used on fire sprinkler systems. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-402. Standards. The Town of Jonesborough Public Water System is to comply with Tennessee Code Annotated, §§ 68-13-701 to 68-13-719, as well as the rules and regulations for public water systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and inter-connections, and establish an effective on-going program to control these undesirable water uses. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-403. Requirements for premises served. The requirements contained herein shall apply to all premises served by the Jonesborough Public Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such requirements, being essential for the protection of water distribution system against the entrance of contamination which may render the water unsafe health wise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises whether inside or outside the

Jonesborough corporate limits. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-404. Cross-connections, etc., unlawful; exception. It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, bypass or inter-connection is at all times under the direct supervision of the Town of Jonesborough Public Water Systems Cross-Connection Control Administrator, or his designated representative. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-405. Statements required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the cross-connection control administrator, or his designated representative, a statement of the non-existence of unapproved or unauthorized auxiliary intakes, bypasses, or inter-connections with the town's water system. Such statements shall also contain an agreement that no cross-connection auxiliary intake, bypass, or inter-connection will be permitted upon the premises. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-406. Guidelines for preventing cross-connection contamination. The following guidelines shall govern the installation and maintenance of devices used to prevent cross-connection contamination.

(1) Installation of Reduced Pressure Zone (RPZ) Devices. All RPZs must be installed in a horizontal position with the relief part down, with the exception of fire lines that would require Reduced Pressure Detector Assembly (RPDA) devices and a retro-fit which would cause major reconstruction of plumbing. These may be vertically installed as long as the device and installation is approved by the cross-connection control administrator and it is presented in writing. Strainers should be installed ahead of the device. However, no strainer is to be used in a fire line without the written approval of the fire official having jurisdiction, and/or the insurance underwriter. No backflow device shall be installed in a pit. All backflow devices must have protection from freezing and vandalism, and should be installed where they are easily accessible for testing and maintenance. All devices must have adequate distance from walls, a minimum of thirty-six inches (36") above the floor, and a maximum height of sixty inches (60") from floor level with the exception of in freeze proof boxes. Freeze proof boxes shall be installed in accordance to the manufacturer's specifications for the box associated with the device that is being

installed. A RPZ must have a drain adequate to evacuate the water to keep the area or box from flooding and at no time can the device be submerged or be placed in an area that can possibly be submerged (installation above a floor drain is ideal). The relief valve should never be plugged, and a device must be installed with an air gap if a drain system is connected to the relief port. All strainers, pressure reducers, valves, shutoffs pertaining to the backflow assembly must meet the State of Tennessee, USC Foundation for Cross-Connection Control and Hydraulic Research, and the Town of Jonesborough Water System's installation requirements.

(2) Proper fire line protection. (a) Reduced Pressure Detector Assemblies (RPDA) are to be installed on fire lines where a potential hazard may be present due to the possibility that contaminates such as anti-freeze or chemical suppression foam from fire vehicles may be drawn or siphoned back into the water system. RPDA's must be installed per the manufacturers' instructions and be inspected.

(b) Double Check Detector Assembly (DCDA) devices are to be installed where a hazard does not exist due to contaminators like anti-freeze or chemical suppression foam.

(c) Under no circumstances shall RPDA and DCDA devices be installed in a pit or confined space. These devices must be installed in an above ground heated enclosure near the property line, except in situations where the property line installation is impossible. In downtown and other areas where buildings are against the sidewalks, and the above ground installation of a RPDA or DCDA device would create a hazardous obstruction, the devices may be installed inside the adjoining building on a riser. In order to obtain approval to not use an above ground box, the following conditions must be met:

(i) Plans showing the device to be used and/or any changes must be submitted to the Jonesborough Water Department at town hall.

(ii) Approval of the plan must be obtained from the cross-connection administrator or designee.

(iii) The device must be placed on the fire line as soon as it is within the boundary of the building and within twenty feet (20') of the fire line isolation valve installed by the Jonesborough Water Department.

(d) Under no circumstances shall the Jonesborough Water Department's fire-line isolation valve be used or take the place of the customer's post indicator valve. In cases where a PIV would be an obstruction to a sidewalk, a wall PIV should be installed.

(e) In extreme cases where esthetics are a concern especially in the historic areas of downtown a custom designed recessed wall cabinet, or access door(s), to an internal riser mounted PIV or wall PIV can be installed. There must be a clear viewing port or window and the indicator

must be visible through the window without it being necessary to unlock and opening the door(s) or cabinet to view the indicator. It must be freeze protected without obstructing the use or sight of the indicator. Any designs within the historic zoned area of town must obtain approval of the Jonesborough Historic Commission, Jonesborough Fire Department, Jonesborough's Building Inspector and the Jonesborough Water Department. In all cases, however, the public's health and safety will be the final deciding factor.

(f) All accesses to the PIV must be pad-locked to protect it from unauthorized use. All keys shall be stored in a Knox-Box Rapid Entry System recessed in the wall of the structure, located at a mutually agreed location and approved by the Jonesborough Fire Chief or their designee.

(3) Conditional assemblies. Installed prior to the adoption of the approved list by the division of water will be allowed to continued operation if the following conditions are met: These existing assemblies must pass test requirements set by the State of Tennessee and Town of Jonesborough for the assembly being tested. The town must be notified immediately by the customer and inspector with a written plan of action if the assembly fails. If the assembly fails, only manufacturer-specified parts may be used for repairs. If manufacturer-specified parts are not available, the assembly must be replaced with an approved assembly listed on the State of Tennessee approved list. If the assembly is repaired or rebuilt, a certified backflow inspector must perform the repairs. Jonesborough may require replacement at any time as the schedule permits, however, prior notification is required before the new approved assembly is installed; the backflow prevention assembly will be replaced within the timeframe specified by the cross-connection control administrator.

(4) Annual testing. Annual testing is required, and inspection dates for domestic and fire line devices are determined by the last inspection of each year. This scheduling is strictly at the Jonesborough Water Department's discretion. The Jonesborough Water Department may require an overhaul or complete replacement of the device if it fails repetitively.

(5) Assembly failure. When a backflow prevention assembly fails, the assembly will be replaced or repaired within the timeframe specified by the Jonesborough Water Department's designated cross-connection inspector. The timeframe established will depend on the type of hazard and the possibility of contamination hazard and level of hazard will be determined by the Jonesborough Water Department. All sites that are high hazard and an immediate (imminent) risk of contamination shall be repaired and re-tested immediately. High hazard locations should have parts to rebuild the device or a parallel device in place. High hazards will he allowed up to fifteen (15) days to have the assembly rebuilt, replaced, and retested. If there are high or low hazards present, but no cross-connections and is not an imminent risk of contamination, the maximum time for repair and retest is ninety (90) days.

However, this is strictly at the discretion of the Jonesborough Water Department, and thirty (30) days are recommended.

(6) Inspectors and inspector duties. It shall be the duty of the Town of Jonesborough Water Department to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The cross-connection control administrator, or his designated representative, shall establish the frequency of inspections and re-inspections based on potential health hazards to the Town of Jonesborough Public Water Supply, and as approved by the Tennessee Department of Environment and Conservation. It shall be the duty of the property owner and or occupant to have each and all devices inspected annually by a state certified backflow inspector who meets the Jonesborough Water Department's criteria; and a written report shall be supplied to the Jonesborough Water Department within ten (10) days of inspection. If the device fails the inspection, the certified inspector must notify the Jonesborough Water Department immediately for a high hazard, and within forty-eight (48) hours for all other hazards. A written plan of action shall also accompany notification which shall contain all work performed on the device including flushing lines. All cost associated with inspections, repairs or replacement will be the responsibility of the property owner or occupant.

All inspectors must be approved by the State of Tennessee and Town of Jonesborough. The inspector is responsible for verifying device and installation approval with the town: inspector must provide state update certification, and test kit calibration certification to the town upon conducting an inspection; inspector is responsible for sending the inspection report to the town within ten (10) days of inspection; inspector must also leave a copy of inspection with customer; pass or fail must be at the top right corner of all inspection reports; inspector must notify the town immediately with a plan of action upon failure of a high hazard device; inspector must notify the town in writing within forty-eight (48) hours with a plan of action upon failure of all other devices; plan of action must include: date, location, device, what is to be done, and repair or replacement time table. The inspector must include on all inspection reports: license number and expiration, date of certification on inspection report, telephone number of inspector, name of premises, address of service, contact person with phone number, use and location of device, size, manufacturer, type, line pressure, rebuilt date, serial number of device, full model number, company, company address and telephone number, signature of inspector, date of inspection, test values, and comments. If an old device is being replaced the serial number must be under the new device serial number with "OLD" beside it, If the device serial number and model number cannot be verified the device shall be replaced. All new devices must be inspected at installation; all new construction must have the device inspected prior to occupancy permit. The inspector will have all privileges suspended and will not be allowed to perform testing backflow assemblies in the Jonesborough Water Department's Water

System for falsifying information or for failure to comply with inspection criteria. The suspension time is strictly at the discretion of the Town of Jonesborough's Cross-Connection Control Administrator. If the inspector continues to fail to comply with the rules he/she shall be taken off the approved list for the Town of Jonesborough service area, and the State of Tennessee will be notified. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-407. Right of entry; furnishing of information. The cross-connection control administrator or his designated representative shall have the right to enter, at any reasonable time, any property served by the connection to the Town of Jonesborough Public Water Supply for the purpose of inspecting the piping system or systems thereof for cross-connections, auxiliary intakes, bypasses, or inter-connections. On request by the Jonesborough Water System, the owner, lessee, or occupant of any property so served shall furnish to the water system's inspection agent any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connection. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-408. Time for compliance. (1) Any person who now has cross-connections, auxiliary intakes, bypasses, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with provisions of this chapter. After a thorough investigation of existing conditions, and an appraisal of the time required to complete the work, the cross-connection control administrator, or his designated representative of the Town of Jonesborough, shall designate the amount of time to come into compliance.

(2) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within the time limits set by cross-connection control administrator, or his designated representative, shall be grounds for denial of water services. If after the specified time, proper protection has not been provided against a high hazard, the water service will be discontinued immediately. If proper protection has not been provided after reasonable time for all other hazards, the utility shall give the customer legal notification that water service is to be discontinued, and the town will physically separate the public water supply from the customer's on-site piping system in such a manner that the two (2) systems cannot again be connected by an unauthorized person.

(3) Where cross-connections, inter-connections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the cross-connection control administrator, or his designated representative, shall require that immediate corrective action be taken to eliminate the threat and to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is

corrected immediately. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-409. Use of protective devices. (1) The cross-connection control administrator or designated representative shall require the use of an approved protective device on the service line when it deemed that one (1) or more of the following conditions exist:

(a) It is impractical to provide effective air gap separation.

(b) The owner and/or occupant of the premises cannot or is not willing to demonstrate to the Jonesborough Water System's designated representative that the water use and protective fixture in the plumbing system are such to provide no threat to the safety or portability of the Jonesborough Water Supply.

(c) The nature and mode of operation within the building or premises are such that frequently alterations are being made to the plumbing and building water supply.

(d) There is a likelihood that protective measures may be subvented, altered, or disconnected.

(2) The protective device required by the cross-connection control administrator shall be a reduced device pressure zone back-flow preventer approved by the Tennessee Department of Environment and Conservation and the Town of Jonesborough as to manufacture, model, and size. The method of installation of back-flow protective devices shall be approved by the water distribution superintendent or his designated representative, prior to installation and shall meet or exceed the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

(3) Personnel of the Town of Jonesborough Water Department Supply, and/or a state certified back-flow inspector shall have the right to inspect and test the device or devices.

(4) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate parallel devices shall be required to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the cross-connection control administrator, or his designated representative shall notify, in writing, the occupant of the premises that parallel devices will be required for future testing. Prior to the parallel device installation, a plan should be developed to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The cross-connection control officer shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit working properly and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs and inspections shall be made by qualified personnel, acceptable to the cross-connection control

administrator, or his designated representative of the Town of Jonesborough Public Water System.

(5) If necessary, water services shall be discontinued (following legal notification) for failure to maintain back-flow prevention devices in proper working order. Likewise the removal, bypassing, or altering the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for immediate discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the cross-connection control administrator, or his designated representative. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-410. Un-potable water to be labeled. The potable water supply made available to premises served by the public water supply is to be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE
FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-411. Violations and penalty. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not more than fifty dollars ($50.00), and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties the cross-connection control administrator, or his designated representative of the Town of Jonesborough, may discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, bypass, or interconnection, and service shall not be restored until such cross-connection auxiliary intake bypass, or interconnection, has been discontinued and eliminated. (Ord. of June 16, 1986, as replaced by Ord. #2014-04, March 2014)

8-412. Severability. Should any part or parts of this chapter be declared invalid for any reason, no other part, or parts of this chapter shall be affected thereby. (as added by Ord. #2014-04, March 2014)

8-413. Cross-connection control administrator. The Jonesborough Water System's Cross-Connection Control Administrator or designee has the authority

to enforce the provisions and regulations established in the chapter. (as added by Ord. #2014-04, March 2014)

CHAPTER 5

BOARD OF DWELLING STANDARDS AND REVIEW

SECTION

8-501. Definitions.
8-502. Creation of board of dwelling standards and review.
8-503. Petition procedure.
8-504. Basis for a finding of unsuitability for human occupation or use.
8-505. Powers of board of dwelling standards and review.
8-506. Findings of fact.
8-507. Repair of conforming structures.
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8-509. Structures containing nonconforming residential uses.
8-510. Letter of compliance.
8-511. When board may repair, etc.
8-512. Board may effect remedy.
8-513. Remedy by board--lien.
8-514. Inspections.
8-515. Hardships: appeals.
8-516. Service of complaints or orders.
8-517. Designated historic landmarks and buildings and structures within the historic zone.
8-518. Powers conferred are supplemental.
8-519. Structures unfit for human habitation deemed unlawful.

8-501. Definitions. The following words or expressions, whenever used in this chapter, shall have for the purpose of this chapter the following respective meanings, unless a different meaning clearly appears from the context. Whenever the words "dwelling," "dwelling unit," "premises," and "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(1) "Alter" or "alteration" means any change or modification in construction or occupancy.

(2) "Approved" means approved by the public authority or other authority having jurisdiction.

(3) "Board of dwelling standards and review" means the public officer or officers authorized by this chapter to exercise the powers prescribed hereunder and by Tennessee Code Annotated, title 13, chapter 21, as it now reads or as it may hereafter be amended.

(4) "Building" means any structure, including modular and mobile homes, having a roof supported by columns or by walls and intended for the shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" is construed as if followed by the words "or part thereof". (For

the purpose of this chapter, each portion of a building separated from other portions by a firewall shall be considered as a separate building.)

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

(6) "Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.

(7) "Public authority" means the Chief Building Official of the Town of Jonesborough or his designee.

(8) "Repair" means the replacement of existing work with the same kind of materials used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations or that would be in violation of a provision of law ordinance. The term "repair" or "repairs" shall not apply to any change of construction.

(9) "Structure" means any dwelling or place of public accommodation.

(10) "Value" means that value stated as the "appraised" value on the tax assessment rolls of the Town of Jonesborough. [as added by Ord. #97-20, § 1, Oct. 1997]

8-502. Creation of board of dwelling standards and review. A board of dwelling standards and review shall be designated and appointed by the board of mayor and aldermen to exercise the powers prescribed by this chapter. The board of dwelling standards and review shall consist of five (5) members who shall be qualified citizens of the town and who shall serve at the pleasure of the board of mayor and aldermen. A majority of all its members shall constitute a quorum, which quorum shall be authorized to exercise the powers conferred on said board by this chapter.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

8-503. Petition procedure. Whenever a petition is filed in writing with the board of dwelling standards and review by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupation or use, or whenever it appears to the board of dwelling standards and review or any of its members on its or his own motion that any structure is unfit for human occupation or use, the board of dwelling standards and review shall, if its preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest of such structure a complaint stating the charges in that respect and containing a notice that a

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[1]State law reference
Tennessee Code Annotated, § 13-21-103(1).

hearing will be held before the board of dwelling standards and review, or its designated agent, at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint, and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board of dwelling standards and review.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

8-504. Basis for a finding of unsuitability for human occupation or use. The board of dwelling standards and review shall have the power and may determine that a structure is unfit for human occupation or use if it finds that conditions exist in structures which are dangerous or injurious to the health, safety or morals of the occupants or uses of such structure, the occupants of neighboring structures or other residents of the town; 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; and uncleanness. [as added by Ord. #97-20, § 1, Oct. 1997]

8-505. Powers of board of dwelling standards and review. The board of dwelling standards and review shall have and may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers:

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

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

(3) To enter upon premises for the purpose of making examinations allowed by law; provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession; and

(4) To delegate any of its functions and powers under this chapter to such officers and agents as it may designate.[2] [as added by Ord. #97-20, § 1, Oct. 1997]

8-506. Findings of fact. If, after such notice and hearing as described hereinabove, the board of dwelling standards and review determines that the structure in consideration is unfit for human occupation or use, the board shall

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[1]State law reference
Tennessee Code Annotated, § 13-21-103.

[2]State law reference
Tennessee Code Annotated, § 13-21-107.

state in writing findings of fact in support of its determination and shall issue and cause to be served upon the owner 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 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 as a place of human occupation or use; or

(2) If the repair, alteration, or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, requiring the owner, within the time specified in the order, to remove or demolish such structure.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

8-507. Repair of conforming structures. (1) The provisions of this chapter shall apply to any structure conforming to the provisions of the zoning code irrespective of when said structure was constructed, altered, or repaired.

(2) If, within any period of twelve (12) months, alterations or repairs costing in excess of fifty percent (50%) of the replacement cost of the structure prior to any alterations are made to any existing structure, such structure shall be made to conform to the requirements of the building code of the town for new structures.

(3) If an existing structure is damaged by fire or otherwise in excess of fifty percent (50%) of its replacement cost at time of destruction, it shall be made to conform to the requirements of the building code of the town for new structures.

(4) If the cost of such alterations or repairs within any twelve (12) month period or the amount of such damage as referred to in subsection (3) above is more than fifty percent (50%) of the replacement cost of the structure, the portions to be altered or repaired shall be made to conform to the requirements of the building code of the town for new structures to the extent that the board of dwelling standards and review may determine.

(5) Repairs and alterations not covered by the preceding subsections, and which will not extend or increase a hazard, may be made with the same kind of materials as those of which the structure is constructed, to the extent permitted by the board of dwelling standards and review.

(6) For the purpose of this section, the "value" of a structure shall be as determined by the board of dwelling standards and review. [as added by Ord. #97-20, § 1, Oct. 1997]

8-508. Repair or removal--nonconforming structures. Structures not conforming to the zoning code of the town may be repaired under the terms of

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[1]State law reference
Tennessee Code Annotated, § 13-21-103.

and to the extent permitted by provisions of that code; otherwise said structures must be demolished and removed. [as added by Ord. #97-20, § 1, Oct. 1997]

8-509. Structures containing nonconforming residential uses. Structures occupied by nonconforming uses may be repaired for such uses under the terms of and only to the extent permitted by the provisions of the zoning code of the town; otherwise, the repair of the structure must be conducted to accommodate a use conforming to the zoning code, or else the structure shall be demolished and removed. [as added by Ord. #97-20, § 1, Oct. 1997]

8-510. Letter of compliance. A letter indicating compliance with the provisions of this chapter may be issued by the board of dwelling standards and review. [as added by Ord. #97-20, § 1, Oct. 1997]

8-511. When board may repair, etc. If the owner or parties in interest fail to comply with an order to repair, alter, or improve or an order to vacate and close the structure, the board of dwelling standards and review may cause such structure to be repaired, altered, or improved, or to be vacated and closed, and may cause to be posted on the main entrance of any structure so closed, a place card 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". The board of dwelling standards and review shall continue the closure of the structure until the repairs, alterations, or improvements are made.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

8-512. Board may effect remedy. If the owner or parties in interest fail to comply with an order to repair, remove, or demolish the structure, the board of dwelling standards and review may cause such structure to be repaired, removed, or demolished contingent upon the town having appropriated sufficient revenues from its budget or if grants or donations are received to carry out the purposes of this chapter.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

8-513. Remedy by board--lien. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the board of dwelling standards and review shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deed of Washington County, be a lien on the property in favor of the town, second only to liens of the state, county, and town for taxes, any lien of the town for special assessments, and any valid lien, right, or interest in such

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[1]State law reference
Tennessee Code Annotated, § 13-21-103.

property duly recorded or duly perfected for filing, prior to the filing of such notice. These costs shall be collected by the town recorder 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 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. In addition, 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 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 town, the town 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, shall be secured in such a 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; provided, however, that the power of the town to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, shall not be impaired or limited by this section.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

8-514. Inspections. The public authority shall make or cause to be made inspections to determine the conditions of structures and premises in the interest of safeguarding the health, safety, and welfare of the occupants of said structures and of the general public. For the purpose of making such inspections, the board of dwelling standards and review and the public authority, of their agents or designees, are authorized to enter, examine, and survey at all reasonable times all structures and premises. The owner or occupant or person in charge of every structure shall give the board of dwelling standards and review and the public authority, or their agents or designees, free access to such structures or premises at all reasonable times for the purpose of such inspection, examination or survey. [as added by Ord. #97-20, § 1, Oct. 1997]

8-515. Hardships: appeals: (1) Where the literal application of the requirements of this chapter may cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of this chapter or any of the regulations herein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal

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[1]State law reference
Tennessee Code Annotated, § 13-21-103.

the allegations contained within the petition in the answer to the complaints at the time of the public hearing before the board of dwelling standards and review.

(2) Any person affected by an order issued by the board of dwelling standards and review served pursuant to this chapter may file a bill in chancery court for an injunction restraining the board of dwelling standards and review from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the board of dwelling standards and review pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the board of dwelling standards and review, 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 board of dwelling standards and review shall be entitled to recover any damages for action taken pursuant to any order of the board of dwelling standards and review, or because of noncompliance by such person with any order of the board of dwelling standards and review.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

8-516. Service of complaints or orders. Complaints or orders issued by the board of dwelling standards and review under the 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 board of dwelling standards and review in the exercise of reasonable diligence, and the board of dwelling standards and review or any of its members or the public authority 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 of general circulation in the Town of Jonesborough. A copy of such complaint or order shall be posted in a conspicuous place or 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 the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices as provided by law.[2] [as added by Ord. #97-20, § 1, Oct. 1997]

8-517. Designated historic landmarks and buildings and structures within the historic zone. Any structures or buildings which is a designated

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[1]State law reference
Tennessee Code Annotated, § 13-21-106.

[2]State law reference
Tennessee Code Annotated, § 13-21-105.

landmark within the town or any structure or building within the historic zone must be maintained as required by the minimum maintenance requirements set out in the town's demolition by neglect ordinance contained in title 11, chapter 16 of the Jonesborough Municipal Code. Accordingly, all repairs, alterations, improvements or the demolition of buildings and structures designated as historic landmarks or located within the historic zone must receive prior approval by the historic zoning commission. [as added by Ord. #97-20, § 1, Oct. 1997]

8-518. 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. [as added by Ord. #97-20, § 1, Oct. 1997]

8-519. 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 of up to five hundred dollars ($500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.[1] [as added by Ord. #97-20, § 1, Oct. 1997]

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[1]State law reference
Tennessee Code Annotated, § 6-54-308.

CHAPTER 6

ILLICIT DISCHARGE AND ILLEGAL CONNECTION

SECTION

8-601. Short title.
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8-607. Prohibition of illegal connections.
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8-625. Severability.
8-626. Responsibility for administration.
8-627. Penalties.

8-601. Short title. This chapter shall be known as the "Illicit Discharge Ordinance of the Town of Jonesborough, Tennessee." (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-602. General provisions. The purpose of this chapter is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the Town of Jonesborough storm drain system to the maximum extent practicable as required by federal law. This chapter established methods for controlling the introduction of pollutants into the Town of Jonesborough storm drain system in order to comply with requirements of the

National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are to:

(1) Regulate the contribution of pollutants to the Town of Jonesborough storm drain system by any person;

(2) Prohibit illicit discharge and illegal connections to the Town of Jonesborough storm drain system;

(3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Town of Jonesborough storm drain system; and

(4) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this chapter. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-603. Applicability. The provisions of this chapter shall apply throughout the incorporated areas of the Town of Jonesborough. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-604. Definitions. (1) "Accidental discharge" means a discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence.

(2) "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(3) "Construction activity" means activities subject to the Town of Jonesborough Stormwater, Erosion and Sediment Control Ordinance or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

(4) "Enforcement officer" means the building inspector, director of public works, Jonesborough Public Safety Officer or any other person designated by the Town of Jonesborough Board of Mayor and Aldermen to enforce the illicit discharge chapter.

(5) "Hot spots" means sites, developments, or uses that have the potential of discharging pollutants or concentrations of pollutants that are not normally found in stormwater. These sites could include concrete and asphalt facilities, auto repair, auto supply, and large commercial parking lots.

(6) "Illicit discharge" means any direct or indirect non-stormwater discharge to the Town of Jonesborough storm drain system, except as exempted in § 8-606 of this chapter.

(7) "Illegal connection" means either of the following:

(a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and

wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

(b) Any pipe, open channel, drain or conveyance from a commercial or industrial use connected to the Town of Jonesborough storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(8) "Industrial activity" means activities subject to NPDES industrial permits.

(9) "National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by the State of Tennessee that authorizes the discharge of pollutants to water of the United States, whether the permit is applicable on an individual, group, or general area wide basis.

(10) "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

(11) "Person" means, except to the extent exempted from this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body of any other legal entity.

(12) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from construction a building or structure; concrete and cement; and noxious or offensive matter of any kind.

(13) "Pollution" means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes, but is not limited to, a change in temperature, taste, color, turbidity, or odor of such water, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such water harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

(14) "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(15) "State waters" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Tennessee which are not entirely confined and retained completely upon the property of a single person.

(16) "Stormwater runoff or stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(17) "Town of Jonesborough Storm Drain System" means any publicly owned or operated facility designed or used for collecting and/or conveying stormwater including, but not limited to, any roads and streets with drainage systems, curbs, gutters, inlets, catch basins, storm drains, structural and non-structural stormwater controls, stormwater management devices such as detention ponds, ditches, swales, natural and man-made or altered drainage channels, streams, creeks, rivers, reservoirs, and other drainage structures.

(18) "Water course" means any structural or non-structural stormwater conveyance device including, but not limited to, storm drains, ditches, swales, channels, creeks, streams, rivers, and lakes. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-605. Prohibition of illicit discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Town of Jonesborough storm drain system any pollutants or waters containing any pollutants, other than stormwater. The town should identify areas that would be considered "hot spots" for pollution runoff. These sites should be investigated for potential highly contaminated runoff and, if found, enforcement action shall occur. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-606. Exemptions. The following discharges are exempt from the prohibition § 8-605 above:

(1) Water line flushing performed by a governmental agency;

(2) Landscape irrigation or lawn watering with potable water;

(3) Diverted stream flows permitted by the State of Tennessee;

(4) Rising groundwater;

(5) Groundwater infiltration to storm drains;

(6) Uncontaminated pumped groundwater;

(7) Foundation or footing drains (not including active groundwater dewatering systems);

(8) Crawl space pumps;

(9) Air conditioning condensation;

(10) Springs;

(11) Natural riparian habitat or wetland flows;

(12) Discharges or flows from fire fighting;

(13) Individual residential washing of vehicles;

(14) Vehicle washing for nonprofit fund raising purposes as long as the activity does not negatively impact waters of the state;

(15) Swimming pools (if de-chlorinated-typically less than one (1) part per million chlorine);

(16) Street wash waters resulting from normal street cleaning operations as long as the water is cold and does not contain any soap, detergent, degreaser, solvent, emulsifier, dispersant, or other harmful cleaning substance;

(17) Dye testing permitted by the Town of Jonesborough;

(18) Any other water source not containing pollutants;

(19) Other discharges specified in writing by the Town of Jonesborough as being necessary to protect public health and safety; and

(20) Discharges permitted under an NPDES permit or order issued to the discharger and administered under the authority of the state and Federal Environmental Protection Agency; provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided that written approval has been granted for any discharge to the Town of Jonesborough storm drain system. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-607. Prohibition of illegal connections. The construction, connection, use, maintenance or continued existence of any illegal connection to the Town of Jonesborough storm drain system is prohibited.

(1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) A person violates this chapter if the person connects a line conveying sewage to the Town of Jonesborough storm drain system, or allows such a connection to continue.

(3) Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the receiving sanitary sewer agency.

(4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the enforcement officer requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the

outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the enforcement officer. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-608. Storm drain inlet liability. Storm drain inlets installed in new public streets whether installed by private parties or the Town of Jonesborough shall be stenciled with the words "Don't Dump – Drains to Stream" using traffic bearing paint and minimum two-inch (2") high letters.

The stenciling shall be placed in a conspicuous location adjacent to or on the inlet. The preferred location for the stenciling is outside of the road pavement on the curb, if applicable, or the top of the inlet structure. Other alternate locations for the stenciling if the top of the curb or structure does not work are the pavement or sidewalk.

Other methods such as storm drain markers or castings in the structures to provide the words "Don't Dump – Drains to Stream" adjacent to or on the inlets may be used with the building inspector's approval and as long as the wording is conspicuous and long lasting.

The stenciling or other method of labeling installed by private developers within their new developments shall be guaranteed by the private developer for one (1) year from the time of installation and after this guarantee period the Town of Jonesborough shall be responsible for maintenance. Labeling installed by the Town of Jonesborough or citizen groups in existing public streets shall be maintained by the Town of Jonesborough from the time of installation. Other wording besides "Don't Dump – Drains to Stream" may be used with the building inspector's approval and as long as the intent is the same. Any labeling within the historic district must be approved by the historic zoning commission. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-609. Watercourse protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property boundaries free of trash, debris, and other items and obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-610. Industrial construction activity discharges. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement officer prior to allowing discharges to the town of storm drain system. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-611. Access and inspection of properties and facilities. The enforcement officer shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this chapter.

(1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access for representatives of the enforcement officer.

(2) The owner or operator shall allow the enforcement officer ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

(3) The enforcement officer shall have the right to set up on any property or facility such devices as are necessary in the opinion of the enforcement officer to conduct monitoring and/or sampling of flow discharges.

(4) The enforcement officer may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the enforcement officer. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the enforcement officer and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(6) Unreasonable delays in allowing the enforcement officer access to a facility are a violation of this chapter.

(7) If the enforcement officer has been refused access to any part of the premises from which stormwater is discharged, and the enforcement officer is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the enforcement officer may seek issuance of a search warrant from any court of competent jurisdiction. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-612. Responsibility for discoveries, containment and clean-up. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which

are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Town of Jonesborough storm drain system, state waters, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such releases so as to minimize the effects of the discharge. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-613. Responsibility for notification. The person responsible for a facility operation or premises on which a suspected release of pollutants or non-stormwater discharge may be generated shall notify the authorized enforcement agency in person, by phone, or facsimile no later than twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the enforcement officer within three (3) business days of the phone or in person notice. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-614. Records required. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-615. Immediate notification of hazardous discharge. In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified through emergency dispatch services. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-616. Failure to notify a violation. Failure to provide notification of a release as provided above is a violation of this chapter. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-617. Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

(1) Any person who has violated or continues to violate the provisions of this chapter may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(2) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare, and environment and

is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-618. Violation an immediate danger to public health or safety. In the event the violation constitutes an immediate danger to public health or public safety, the enforcement officer is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The enforcement officer is authorized to seek costs of the abatement as outlined in § 8-622. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-619. Notice of violation. Whenever the enforcement officer finds that a violation of this chapter has occurred, the enforcement officer may order compliance by written notice of violation.

(1) The notice of violation shall contain:

(a) The name and address of the alleged violator;

(b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;

(c) A statement specifying the nature of the violation;

(d) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;

(e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

(f) A statement that the determination of violation may be appealed to the enforcement officer by filing a written notice of appeal within thirty (30) days of service of notice of violation.

(2) Such notice may require without limitation:

(a) The performance of monitoring, analyses, and reporting;

(b) The elimination of illicit discharges and illegal connections;

(c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(e) Payment of costs to cover administrative and abatement costs; and

(f) The implementation of pollution prevention practices. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-620. Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the enforcement officer to the

Jonesborough Board of Mayor and Aldermen. A written notice of appeal must be received by the enforcement officer within thirty (30) days from the date of the notice of violation. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-621. Enforcement measures after appeal. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within thirty (30) days of the decision of the appropriate authority upholding the decision of the enforcement officer, then representatives of the enforcement officer may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-622. Costs of abatement of the violation. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.

(1) The property owner may file a written protest objecting to the assessment or to the amount of the assessment within thirty (30) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal upholds the assessment, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(2) Any person violating any of the provisions of this chapter shall become liable to the Town of Jonesborough by reason of such violation. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-623. Remedies not exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and the enforcement officer may seek cumulative remedies.

The enforcement officer may recover attorney's fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-624. Compatibility with other regulations. This chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other

ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-625. Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

8-626. Responsibility for administration. The enforcement officer as directed by the board of mayor and aldermen, through the town administrator, shall administer, implement, and enforce the provisions of this chapter. (as added by Ord. #2008-14, Oct. 2008)

8-627. Penalties. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized enforcement officer, shall be guilty of a violation of this chapter, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. The person shall be subject to fines of up to five thousand dollars ($5,000.00) per day for each day of violation.[1] Citations for violations may be issued by any enforcement officer, public safety director, or a Jonesborough police officer. (as added by Ord. #2005-02, Jan. 2005, and replaced by Ord. #2008-14, Oct. 2008)

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[1]State law reference
Tennessee Code Annotated, § 68-221-1101.

TITLE 9

MOTOR VEHICLES AND TRAFFIC[1]

CHAPTER
1. MISCELLANEOUS.
2. SPEED LIMITS.
3. TURNING MOVEMENTS.
4. STOPPING AND YIELDING.
5. PARKING.
6. ENFORCEMENT.
7. JUNK VEHICLES.
8. INSURANCE ON VEHICLES.
9. TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM.
10. TRUCK ROUTES.

CHAPTER 1

MISCELLANEOUS

SECTION
9-101. Motor vehicle requirements.
9-102. Authorized emergency vehicles defined.
9-103. Operation of authorized emergency vehicles.
9-104. Following emergency vehicles.
9-105. Running over fire hoses, etc.
9-106. Driving on streets closed for repairs, events etc.
9-107. Reckless driving.
9-108. One-way streets.
9-109. Unlaned streets.
9-110. Laned streets.
9-111. Yellow lines.
9-112. Miscellaneous traffic control signs, etc.
9-113. General requirements for traffic control signs, etc.
9-114. Unauthorized traffic control signs, etc.
9-115. Presumption with respect to traffic control signs, etc.
9-116. School safety patrols.
9-117. Driving through funerals or other processions.
9-118. Damaging pavements.

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[1]For provisions relating to obstructions and/or excavations in the public streets, alleys, sidewalks, and rights-of-way, see title 12 in this code.

9-119. Clinging to vehicles in motion.
9-120. Riding on outside of vehicles.
9-121. Backing vehicles.
9-122. Projections from the rear of vehicles.
9-123. Causing unnecessary noise.
9-124. Vehicles and operators to be licensed.
9-125. Passing.
9-126. Bicycles, scooters, motorcycles, skateboards, etc.
9-127. Police authority to re-route traffic.
9-128. Driving under the influence.
9-129. Adopting of state traffic statutes and regulations, and traffic related fines.
9-130. Jonesborough driving school program established.

9-101. 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 of the Tennessee Code Annotated, chapter 9, title 55. (Ord. of April 19, 1977, § 1-101)

9-102. 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. (Ord. of April 19, 1977, § 1-102)

9-103. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

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

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible

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[1]See § 9-401 in this code for provisions with respect to the operation of other vehicles upon the approach of emergency vehicles.

under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (Ord. of April 19, 1977, § 1-103)

9-104. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park any vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Ord. of April 19, 1977, § 1-104)

9-105. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a firefighter or police officer. (Ord. of April 19, 1977, § 1-105)

9-106. Driving on streets closed for repairs, events etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded, events or closed for repairs, events or other lawful purpose except as follows:

(1) Emergency vehicles.

(2) Service vehicles authorized by the police department to access certain areas within the barricaded boundary and to operate under guidelines established by the police department including a maximum limit of ten (10) miles per hour.

(3) During events and activities, slow moving vehicles, as defined by the state, that were once golf carts or other similar type vehicle with a maximum speed of twenty-five (25) miles per hour and authorized by the police department to access certain areas within the event or activity boundary and operating under guidelines established by the police department. (Ord. of April 19, 1977, § 1-106, as replaced by Ord. #2013-04, May 2013)

9-107. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (Ord. of April 19, 1977, § 1-107)

9-108. 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. (Ord. of April 19, 1977, § 1-109)

9-109. 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 sign posted 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. (Ord. of April 19, 1977, § 1-110)

9-110. 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) 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 the traffic moving at less than the normal rate of speed shall use the extreme right lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (Ord. of April 19, 1977, § 1-111)

9-111. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (Ord. of April 19, 1977, § 1-112)

9-112. 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 willfully to violate or fail to comply with the reasonable directions of any police officer. (Ord. of April 19, 1977, § 1-113)

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[1]See also §§ 9-405 to 9-408 in this code.

9-113. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,[1] published by the U.S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. This section shall not be construed as being mandatory but is merely directive. (Ord. of April 19, 1977, § 1-114)

9-114. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any authorized 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. (Ord. of April 19, 1977, § 1-115)

9-115. 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. All presently installed traffic control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (Ord. of April 19, 1977, § 1-116)

9-116. 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 police department 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. (Ord. of April 19, 1977, § 1-117)

9-117. 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. (Ord. of April 19, 1977, § 1-118)

9-118. Damaging pavements. No person shall operate or cause to be operated upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is

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[1]This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

likely to damage the surface or foundation of the street. (Ord. of April 19, 1977, § 1-119)

9-119. 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. (Ord. of April 19, 1977, § 1-120)

9-120. 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. (Ord. of April 19, 1977, § 1-121)

9-121. 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. (Ord. of April 19, 1977, § 1-122)

9-122. 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 (½) hour after sunset and one-half (½) 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. (Ord. of April 19, 1977, § 1-123)

9-123. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (Ord. of April 19, 1977, § 1-124)

9-124. 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 Motor Vehicle Operators' and Chauffeurs' License Law." (Ord. of April 19, 1977, § 1-125)

9-125. 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. (Ord. of April 19, 1977, § 1-126)

9-126. Bicycles, scooters, motorcycles, skateboards, etc. Every person riding or operating a bicycle, scooter, motorcycle, or any motor-driven cycle, skateboard, go cart, or any wheeled vehicle designed for recreation or transportation 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, or motor-driven cycles.

No person operating or riding a bicycle, motorcycle, or motor-driven cycle 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.

No bicycle, motorcycle, or motor-driven cycle shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor-driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person riding or operating a bicycle, scooter, skateboard, go cart or other wheeled vehicle shall operate such vehicle in a manner that interferes with motor vehicular traffic or causes a hazard to any pedestrian.

No person under the age of sixteen (16) years shall operate any motorcycle or motor-driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor-driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's Commissioner of Safety.

Each driver of a motorcycle or motor-driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's Commissioner of Safety.

Every motorcycle or motor-driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's Commissioner of Safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor-driven cycle shall be required to wear safety goggles of a type approved by the state's Commissioner of Safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

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 or motor-driven cycle in violation of this section. (Ord. of April 19, 1977, as amended by ord. of October 9, 1989)

9-127. Police authority to re-route traffic. The chief of police may authorize the re-routing of traffic at any time he deems necessary for the health, safety, and welfare of the general public. (Code of 1982)

9-128. Driving under the influence. No person shall drive or operate any automobile or other motor driven vehicle while under the influence of an intoxicant, or while under the influence of narcotic drugs, or while under the influence of drugs producing stimulating effects on the central nervous system. (Code of 1982)

9-129. Adopting of state traffic statutes and regulations, and traffic related fines. (1) Pursuant to and to the full extent allowed by Tennessee Code Annotated, § 16-18-302(a)(2) and other state law, all violations of state regulations for the operation of vehicles committed within the corporate limits of Jonesborough which are defined by state law are hereby designated and declared to be offenses against the Town of Jonesborough also. This provision shall be specifically incorporate, but shall not be limited to, Tennessee Code Annotated, §§ 55-8-101 through 55-8-193, 55-10-101 through 55-10-310, 55-50-301, 55-50-302, 55-50-304, 55-50-305, 55-50-311, 55-50-601, 55-10-312, and 55-12-139, incorporated herein by reference as if fully set forth in this section. This provision shall apply only to the extent such state criminal statues are a Class C misdemeanor. The maximum penalty for such violations under the code is a civil fine not in excess of fifty dollars ($50.00) except where as otherwise stipulated in statue statutes.

(2) The Jonesborough Board of Mayor and Aldermen may adopt by resolution a schedule of fines for various traffic violations for use in traffic enforcement and in programming electronic citation equipment used by the police department. Said list of fines may include the actual fine, litigation tax and court costs, and the violations listed are intended to outline more common offenses and do not represent all possible infractions.

(3) (a) As used in this section, "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense. Replicas of the citation data included in the electronic citation must be sent by electronic transmission within three (3) days of the issuance of the citation to a court with jurisdiction over the alleged offense.

(b) Pursuant to and in accordance with state statutory requirements found in Tennessee Code Annotated, § 55-10-207(3), the town shall collect an electronic citation fee of five dollars ($5.00) for each traffic citation that results in a conviction. Such fee shall be assessable as court costs and shall be in addition to all other fees, taxes, and charges. It shall be paid by the defendant for any offense cited in a traffic citation delivered that results in a plea of guilty or nolo contendere, or a judgement of guilty.

(c) Sunset provision. The subsection of the chapter, § 9-129(3), and its five dollar ($5.00) fee requirement, shall terminate five (5) years from the date of adoption, and at that time the town's municipal code shall be so amended and annotated, unless the five (5) year "sunset provision" is determined to be non-binding by the state. (as added by Ord. #2002-14, Dec. 2002, amended by Ord. #2006-10, Oct. 2006, replaced by Ord. #2014-9, Aug. 2014 and amended by Ord. #2019-11, Oct. 2019 ***Ch13_03-08-21***)

9-130 Jonesborough driving school program established. Jonesborough's driving school program is hereby established.

(1) The driving school program shall consist of a four (4) hour driving school and an eight (8) hour driving school.

(a) School classes will be held at a location accessible to the public to be determined by the Jonesborough Chief of Police.

(b) Instructors for the driving school classes must meet any instructor certification requirements necessary, and will be selected by the chief of police.

(c) Instructor compensation will come from the fees established for the driving school.

(d) The schedule of driving school classes will be determined by the chief of police in association with the individual instructors participating.

(2) The following driving school fees are established:

(a) Four (4) hour driving school is one hundred twenty dollars ($120.00).

(b) Eight (8) hour driving school is one hundred sixty-five dollars ($165.00).

(c) Fees for the school must be paid in advance.

(d) Fee payments received must be immediately receipted and submitted through the town recorder's office area.

(e) Fees will be used to pay for instructors, work books, and any other supplies associated with the course instruction.

(3) A driving school technology fund is hereby established in which twelve dollars ($12.00) for a four (4) hour class and sixteen dollars ($16.00) for an eight (8) hour class from the driving school fees paid by each class participant is set aside in reserve through the technology fund to be used for police department related equipment like radios, PDAs, etc. Funds remaining in the driving school technology fund at the end of each fiscal year will be carried over to the next fiscal year. [as added by Ord. #2018-01, Jan. 2018 ***Ch12_04-09-18***]

CHAPTER 2

SPEED LIMITS

SECTION
9-201. In general.
9-202. At intersections.
9-203. In school zones.
9-204. In congested areas.

9-201. 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. [Ord. of April 19, 1977, § 2-101]

9-202. 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. [Ord. of April 19, 1977, § 2-102]

9-203. In school zones. Generally, pursuant to Tennessee Code Annotated, § 55-8-152, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When 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 forty (40) minutes before the opening hour of a school or a period of forty (40) 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. [Ord. of April 19, 1977, § 2-103, modified]

9-204. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the town. [Ord. of April 19, 1977, § 2-104]

CHAPTER 3

TURNING MOVEMENTS

SECTION
9-301. Generally.
9-302. Right turns.
9-303. Left turns on two-way roadways.
9-304. Left turns on other than two-way roadways.
9-305. U-turns.

9-301. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] [Ord. of April 19, 1977, § 3-101]

9-302. 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. [Ord. of April 19, 1977, § 3-102]

9-303. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerlines of the two roadways. [Ord. of April 19, 1977, § 3-103]

9-304. 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. [Ord. of April 19, 1977, § 3-104]

9-305. U-turns. U-turns are prohibited. [Ord. of April 19, 1977, § 3-104]

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[1]See § 55-8-143, Tennessee Code Annotated.

CHAPTER 4

STOPPING AND YIELDING

SECTION

9-401. Upon approach of authorized emergency vehicles.
9-402. When emerging from alleys, etc.
9-403. To prevent obstructing an intersection.
9-404. At railroad crossings.
9-405. At "stop" signs.
9-406. At "yield"signs.
9-407. At traffic control signals generally.
9-408. At flashing traffic control signals.
9-409. Stops to be signaled.
9-410. Pedestrians.

9-401. Upon approach of authorized emergency vehicles.[1] Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. [Ord. of April 19, 1977, § 4-101]

9-402. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. [Ord. of April 19, 1977, § 4-102]

9-403. 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. [Ord. of April 19, 1977, § 4-103]

9-404. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the

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[1]See § 9-102 of this code for definition of "authorized emergency vehicle."

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

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. [Ord. of April 19, 1977, § 4-104]

9-405. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. [Ord. of April 19, 1977, § 4-105]

9-406. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. [Ord. of April 19, 1977, § 4-106]

9-407. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go".

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution".

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before entering the intersection and shall remain standing until green or "Go" is shown alone; provided, however, that a right turn on a red signal shall be permitted at all intersections within the town; provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those 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) Pedestrians facing such signal shall not enter the roadway.

(4) Steady red with green arrow.

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

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made a vehicle length short of the signal. [Ord. of April 19, 1977, § 4-107]

9-408. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town, it shall require obedience by vehicular traffic as follows:

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

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

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 9-404 of this chapter. [Ord. of April 19, 1977, § 4-108]

9-409. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. [Ord. of April 19, 1977, § 4-109]

9-410. Pedestrians. Pedestrians have right-of-way on Main Street. Two (2) signs of suitable design and size may be erected on two (2) conspicuous places on Main Street to read as follows: "Pedestrians Have Right-of-Way at Intersections of Streets" and which signs shall be placed as to be plainly visible to traffic proceeding in either direction, one (1) on the easterly portion of Main Street and one (1) on the westerly portion in order to become effective. [Code of 1982]

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[1]See Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

PARKING

SECTION
9-501. Generally.
9-502. Angle parking.
9-503. Occupancy of more than one space.
9-504. Where prohibited.
9-505. Loading and unloading zones.
9-506. Presumption with respect to illegal parking.

9-501. 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 Jonesborough 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 for more than seventy-two (72) consecutive hours without the prior approval of the police department.

Furthermore, no person shall grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (Ord. of April 19, 1977, § 5-101)

9-502. 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'). (Ord. of April 19, 1977, § 5-102)

9-503. 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. (Ord. of April 19, 1977, § 5-103)

9-504. Where prohibited. No person shall stop, stand or park a vehicle, except when necessary to avoid immediate conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk; provided, that a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic, or such parking is not prohibited by ordinance;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) On a crosswalk or designated pedestrian walkway;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the ends of a safety zone, unless a different length is designated through signs or markings by the town or state;

(9) Within fifty feet (50') of the nearest railroad crossing unless where specifically designated by the town or state;

(10) Within twenty feet (20') of the driveway entrance to any fire station and on the side of a street opposite the entrance within seventy-five feet (75') to any fire station when properly sign-posted;

(11) Along side or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(14) At any place where official signs prohibit stopping, standing or parking, whether temporary or permanent;

(15) 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 physically handicapped or parking the vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a properly issued certificate or placard, or a disable veteran's license plate issued under Tennessee Code Annotated, § 55-4-237;

(16) The provisions of this section do not apply to a certified police officer or cyclist engaged in the lawful performance of duty using a police bicycle or vehicle as a barrier or traffic control device at the scene of an emergency or in response to other calls for police service;

(17) No person shall move a vehicle not lawfully under that person's control into any such prohibited area or away from a curb such distance as is unlawful;

(18) This section shall not apply to the driver of any vehicle that is disabled while on the paved or improved or main traveled portion of a road, street or highway in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position;

(19) This section shall not apply to the driver of any vehicle operating as a carrier of passengers for hire who is authorized to operate such vehicle upon the roads, streets or highways in Tennessee, while taking passengers in the vehicle, or discharging passengers from that vehicle; provided, that the vehicle is stopped so that a clear view of the vehicle shall be obtained from a distance of two hundred feet (200') in each direction, upon the roads, streets or highways; and

(20) This section does not apply to a solid waste, public works, utility, police or fire vehicle while on the paved or improved main traveled portion of a sidewalk, road, street or highway in a manner and to an extent as is necessary for the sole purpose of collecting municipal solid waste, as defined by Tennessee Code Annotated, § 68-211-802, or other town or utility business; provided that the vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; provided further, that the vehicle is stopped so that a clear view of the stopped vehicle shall be available from a distance of two hundred feet (200') in either direction upon the highway. (Ord. of April 19, 1977, § 5-104, as amended by Ord. #2002-13, Dec. 2007, and replaced by Ord. #2011-04, Feb. 2011)

9-505. 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.

Loading and unloading zones for trucks only are hereby designated as follows:

(1) From Farm and Home Supply to Lavenders Market and upon North Cherokee Street.

(2) Fifteen (15) minute parking from Farm and Home Supply to the West side of Chester Inn.

(3) No parking within fifteen feet (15') of street intersections. (Ord. of April 19, 1977, § 5-105, modified)

9-506. 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. (Ord. of April 19, 1977, § 5-106)

CHAPTER 6

ENFORCEMENT

SECTION
9-601. Issuance of traffic citations.
9-602. Failure to obey citation.
9-603. Illegal parking.
9-604. Impoundment of vehicles.
9-605. Disposal of "abandoned motor vehicles."
9-606. Storage fees for seized vehicles.

9-601. Issuance of traffic citations. When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the 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. (Ord. of April 19, 1977, § 6-101)

9-602. 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. (Ord. of April 19, 1977, § 6-102)

9-603. Illegal parking. A violation of this section shall be punishable by such fine and/or costs established by the board of mayor and aldermen for the specific offense outlined under procedures established for traffic citations. (Ord. of April 19, 1977, § 6-103, as replaced by Ord. #2011-04, Feb. 2011)

9-604. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary, for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. (Ord. of April 19, 1977, § 6-104, modified)

9-605. Disposal of "abandoned motor vehicles." "Abandoned motor vehicles" as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 to 55-16-109. (Ord. of April 19, 1977, § 6-105)

9-606. Storage fees for seized vehicles. Vehicles seized in accordance with the Tennessee Code Annotated from drivers arrested for multiple offense DUIs or driving on a revoked license shall be charged a storage fee of ten dollars ($10.00) per day or any portion of a day for those days authorized for storage fee payment by the administrative court. Total storage fees, when applicable, will be determined by the recorder's office based on the judge's order and these fees shall be paid to the recorder's office before the vehicle is released. The recorder's office shall also collect any tow fees paid by the town and required to be reimbursed to the town by the courts before an impounded vehicle is released to the lien or title owner. (as added by Ord. #2005-12, June 2005)

CHAPTER 7

JUNK VEHICLES[1]

SECTION

9-701. Short title.
9-702. Definitions.
9-703. Findings of board; accumulation of junk vehicles declared nuisance.
9-704. Storage on public or private property prohibited.
9-705. Notice to remove.
9-706. Failure to remove declared misdemeanor.

9-701. Short title. This chapter shall be known as the "Abandoned, Junked, or Wrecked Vehicles Ordinance of the Town of Jonesborough, Tennessee." [Ord. of Sept. 10, 1974, art. 1]

9-702. Definitions. For the purpose of this chapter, the following words and terms shall have the designated meaning unless it is clear from the text that a different meaning is intended:

(1) "Abandoned vehicle" means any motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control and/or any vehicle which is wrecked or partially dismantled or inoperative for a period of ten (10) days. There shall be a presumption that the last registered owner thereof has abandoned such vehicle, regardless of whether the physical possession of said vehicle remains in the technical custody or control of such owner.

(2) "Recorder" means the recorder of the town or his duly authorized representative.

(3) "Police department" means the Police Department of the Town of Jonesborough.

(4) "Property" means any real property within the town which is not an improved street or highway.

(5) "Vehicle" means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies, and wagons. [Ord. of Sept. 10, 1974, art. 2]

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[1]For a section providing for the disposal of abandoned motor vehicles which are on public property or on private property without the consent of the owner, see § 9-605 in this code.

9-703. Findings of board; accumulation of junk vehicles declared nuisance. The accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperable motor vehicles on private property tends to reduce the value thereof, to invite plundering, to create fire hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. Such accumulation and storage of vehicles is further found to promote urban blight and deterioration in the community. Such wrecked, junked, abandoned, or partially dismantled or inoperable motor vehicles are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of such vehicles on private property, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in the town's ordinances. [Ord. of Sept. 10, 1974, art. 3, modified]

9-704. Storage on public or private property prohibited. No person shall park, store, or leave or permit the parking, storing, or leaving of any motor vehicle which is in a rusted, wrecked, junked, partially dismantled, inoperable, or abandoned condition upon any public or private property within the town for a period in excess of ten (10) days unless such vehicle is completely enclosed within a building or unless such vehicle is stored or parked on said property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law and such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise. [Ord. of Sept. 10, 1974, art. 3, § a, modified]

9-705. Notice to remove. Whenever it shall appear that a violation of any provision of this chapter exists, the recorder shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that said motor vehicle violates the provisions of this chapter and shall be moved to a place of lawful storage within ten (10) days. Such notice shall be served upon the owner of the vehicle by leaving a copy of said notice on or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting said notice upon the premises. [Ord. of Sept. 10, 1974, art. 3, § b, modified]

9-706. Failure to remove declared misdemeanor. The owner of any abandoned vehicle who fails, neglects, or refuses to remove the said vehicle or to house such vehicle and abate such nuisance in accordance with the notice given pursuant to the provisions of § 9-705 shall be guilty of a misdemeanor. [Ord. of Sept. 10, 1974, art. 3, § c]

CHAPTER 8

INSURANCE ON VEHICLES

SECTION

9-801. Compliance with financial responsibility law required.
9-802. Civil offense.
9-803. Evidence of compliance after violation.

9-801. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be incompliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Tennessee Code Annotated, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident with regard to apparent or actual fault.

(3) For 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 in 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. [as added by Ord. #2002-07, April 2002]

9-802. Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this chapter. Any violation of this chapter is punishable by a civil penalty of up to fifty dollars ($50.00). Any day a motor

vehicle is operated in violation of this chapter is a separate offense. The civil penalty prescribed by this chapter shall be in addition to any other penalty prescribed by the laws of this state or by the town's municipal code of ordinances. [as added by Ord. #2002-07, April 2002]

9-803. Evidence of compliance after violation. On or before the court date, the person charged with a violation of this chapter may submit evidence of compliance with this chapter in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. [as added by Ord. #2002-07, April 2002]

CHAPTER 9

TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM

SECTION
9-901. Automated enforcement.
9-902. Definitions.
9-903. General provisions.
9-904. Offense.
9-905. Penalty.

9-901. Automated enforcement. Implementation of a system for capturing violations of traffic control signs, signals, and devices, and speed limits as defined in the code, with a traffic control photographic system that will use the photographic images as prima-facie evidence of the traffic violations and will authorize the Jonesborough Department of Public Safety or an agent of the department to issue civil citations for the violations, said automated enforcement provisions to be in addition to all current methods of traffic enforcement. (as added by Ord. #2008-03, May 2008)

9-902. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) "Citations and warning notices" means:

(a) The name and address of the registered owner of the vehicles;

(b) The registration plate number of the motor vehicle involved in the violation;

(c) The violation charged;

(d) The location of the violation;

(e) The date and time of the violation;

(f) A copy of the recorded image;

(g) The amount of civil penalty imposed and the date by which the civil penalty should be paid;

(h) A personally or electronically signed statement by a member of the police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of § 9-904 of this chapter; and

(i) Information advising the person alleged to be liable under this section:

(i) Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the municipal court; and

(ii) Warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(2) "In operation" means operating in good working condition.

(3) "Recorded images" means images recorded by a traffic control photographic system on:

(a) A photograph;

(b) A micrograph;

(c) An electronic image;

(d) Videotape; or

(e) Any other medium; and

(f) At least one (1) image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

(4) "System location" means the approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

(5) "Traffic control photographic system" means an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal, or device.

(6) "Vehicle owner" means the person identified by the state department of safety as the registered owner of a vehicle. (as added by Ord. #2008-03, May 2008, and amended by Ord. #2011-02, Jan. 2011)

9-903. General. (1) The Jonesborough Department of Public Safety or an agent of the police department shall administer the traffic control photographic systems and shall maintain a list of system locations where traffic control photographic systems are installed.

(2) A citation or warning alleging that the violation of § 9-904 of this chapter occurred, sworn to and by statement signed personally or electronically by a member of the police department or agents of the police department, based on inspection of recorded images produced by a traffic control photographic system, shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section. The citation or warning shall be forwarded by first-class mail to the owner's address as given on the motor vehicle registration. Personal service of process on the owner shall not be required.

(3) Signs to indicate the use of traffic control photographic systems shall be posted. (as added by Ord. #2008-03, May 2008)

9-904. Offense. (1) Except when directed to proceed by a police officer or traffic control signal, every driver shall stop when facing a red signal light at the stop line, or, if none, before entering the crosswalk on the near side of the intersection, and it shall be unlawful for a vehicle to cross the stop line or stop

point at a system location when facing a red signal light as set out in § 9-407, it shall be unlawful to violate speed limits as set out in § 9-201, or for a vehicle to violate any other traffic regulation specified in this chapter.

(2) A person who receives a citation under § 9-903 may:

(a) Pay the civil penalty, in accordance with the instructions on the citation, which may be paid directly to the municipal court or to the contracted collection agency; or

(b) Elect to contest the citation for the alleged violation.

(3) The owner of a vehicle shall be responsible by strict liability for a violation under this section, which shall be a civil violation only, except by sworn affidavit presented to the court on or before the court date listed in the citation or by sworn evidence in open court, wherein the owner acknowledges that the vehicle was in the care, custody, or control of another person at the time of the violation, and such person accepts responsibility for the violation by written acknowledgment by affidavit or by sworn testimony in court, or the owner submits an affidavit to the court on or before the court date listed in the citation stating under oath that the vehicle was commercially leased at the time of the violation, the name and current address of the person who was the lessee of the vehicle at the time of the violation, and that the vehicle was rented or leased by the person so named from a person in the business of renting or leasing motor vehicles at the time, or as set out in subsection (4)(c) below.

(4) It shall be an affirmative defense to the liability under this section, proven by a preponderance of the sworn evidence that:

(a) The operator of the motor vehicle was acting in compliance with a lawful order of a police officer;

(b) The operator of a motor vehicle violated the instructions of the traffic control signal so as to yield the right-of-way to an immediately approaching authorized emergency vehicle;

(c) The motor vehicle was a stolen vehicle and being operated by a person other than the owner of the vehicle without the effective consent of the owner; provided the owner submits proof acceptable to the court that the theft of the vehicle had been timely reported to the appropriate law enforcement agency;

(d) The license plate depicted in the recorded image of the infraction was a stolen plate being displayed on a motor vehicle other than a motor vehicle for which the plate had been issued; provided that the owner submits proof acceptable to the court that the theft of a license plate had been timely reported to the appropriate law enforcement agency; or

(e) The person who received the notice of violation was not the owner of the motor vehicle at the time of the violation; provided such person supplies proof of the transfer of ownership, and the person provides the name and address of the purchaser or transferee. (as added by Ord. #2008-03, May 2008, and amended by Ord. #2011-02, Jan. 2011)

9-905. Penalty. (1) Any violation of § 9-904 of this chapter shall subject the responsible person or entity to a civil penalty of fifty dollars ($50.00) plus the assessment of court costs for each violation. Failure to appear in court on the designated date shall subject the responsible person or entity to a civil penalty of fifty dollars ($50.00) and the assessment of court costs. Being found by the court as having violated § 9-904 of this chapter shall likewise subject the responsible person or entity to a civil penalty of fifty dollars ($50.00) and the assessment of court costs. The town may enforce the civil penalties by a civil action in the nature of a debt.

(2) A violation for which a civil penalty is imposed under this section shall not be considered a moving violation and may not be recorded by the police department or the state department of safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage. (as added by Ord. #2008-03, May 2008, as amended by Ord. #2011-02, Jan. 2011)

CHAPTER 10

TRUCK ROUTES

SECTION
9-1001. Short title.
9-1002. Definitions.
9-1003. Through-trucks downtown prohibited.
9-1004. Truck route established.
9-1005. Appropriate signage required.
9-1006. Local deliveries or designated truck depot stops.
9-1007. GPS directional systems.
9-1008. Violations.

9-1001. Short title. This chapter shall be known as the "Truck Route Ordinance of the Town of Jonesborough." [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

9-1002. Definitions. For the purpose of this chapter, the following words and terms shall have the meanings ascribed to them in this section, except where the content clearly indicates a different meaning.

(1) "Downtown Jonesborough" means anywhere in Jonesborough's historic district, especially Main Street downtown, but also areas of narrow street width and reduced turning radius that make it difficult or impossible for a large truck to navigate without causing congestion and/or traffic safety issues.

(2) "GPS system" means a directional system available to drivers that provides information on available traffic routes that helps said drivers navigate the shortest or most appropriate way possible from one (1) point to another.

(3) "Through-truck" means a tractor-trailer vehicle with eighteen (18) wheels or more, or a large delivery vehicle with a minimum of ten (10) wheels that is intending to travel through Jonesborough without stopping to make a documented delivery.

(4) "Truck route signage" means those signs erected for the purpose of directing truck drivers to the appropriate truck route(s) through Jonesborough. [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

9-1003. Through-trucks downtown prohibited. (1) Through-trucks or large delivery vehicles attempting to travel through the Town of Jonesborough without a delivery downtown are prohibited from traveling through downtown Jonesborough or on streets within the historic district connecting to Main Street and downtown.

(2) Through-trucks are prohibited from using Washington Drive and Boone Street to access US-11E (SR-34) or Main Street in order to travel through Jonesborough, and are prohibited from traveling on Main Street from Oak Grove

Avenue (SR-81) through downtown to Headtown Road. [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

9-1004. Truck route(s) established. (1) Trucks, whether through-trucks or large delivery trucks, are expected to travel on Jackson Boulevard, US-11E (SR-34), on Boones Creek Road (SR-354), on SR-81 and on SR-353 in Jonesborough.

(2) Persimmon Ridge Road which connects SR-81 to US-11E is Jonesborough's designated truck route to be used by all through-trucks traveling to and from US-11E (SR-34) and SR-81 and SR-353 in Jonesborough. [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

9-1005. Appropriate signage required. The Jonesborough Police Department with the assistance of the Street Department of Jonesborough shall install signage that notifies drivers of through-trucks the direction to the Persimmon Ridge Road truck route as well as signage prohibiting access to downtown Jonesborough via Boone Street, Washington Drive or other such streets that might provide inappropriate access to through-truck traffic into downtown Jonesborough. [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

9-1006. Local deliveries or designated truck depot stops. Large trucks making deliveries into Jonesborough may travel on any public street that is capable of providing the width and turning radius necessary to safely access delivery sites. However, the Jonesborough Police Department is authorized to limit or prohibit local access to any large delivery vehicle the police department determines will create a public safety or congestion problem while carrying out the delivery. The police department may also require a size restriction on trucks undertaking deliveries on a regular basis in the downtown historic area. Large trucks going to and from a truck depot in Jonesborough must use the access route(s) designated by the Jonesborough Police Department, with any applicable route designation being subject to review, if questioned, by the board of mayor and aldermen. [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

9-1007. GPS directional systems. Jonesborough's ordinance establishing designated truck routes and prohibited streets to through-truck traffic in Jonesborough is not in any manner diminished, modified, or replaced by information a driver of a through-truck vehicle may obtain through a GPS directional system. Drivers shall be responsible for observing and reading signage erected to direct through-truck traffic in Jonesborough. [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

9-1008. Violations. Any violation of this chapter shall subject the responsible driver or entity to a penalty of fifty dollars ($50.00) plus an

assessment of court costs for each violation. [as added by Ord. #2016-10, Sept. 2016 ***Ch12_04-09-18***]

TITLE 10

OFFENSES--MISCELLANEOUS[1]

CHAPTER
1. GENERALLY.
2. ENUMERATED.
3. NOISE ORDINANCE.

CHAPTER 1

GENERALLY

SECTION
10-101. Misdemeanors of the state adopted.

10-101. Misdemeanors of the state[2] adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against the Town of Jonesborough also. Any violation of any such law within the corporate limits is also a violation of this section. [Code of 1982]

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[1]For offenses relating to animals and fowls, see title 3 in this code; for offenses relating to fireworks, etc., see the fire code adopted in title 7; for offenses relating to health and sanitation, see title 8; for traffic offenses, see title 9; for non-traffic offenses relating to streets and sidewalks, see title 12.

[2]See sections 39-1-103 and 39-1-104 of the Tennessee Code Annotated for definition of "misdemeanor."

CHAPTER 2

ENUMERATED

SECTION

10-201. Bawdy houses.
10-202. Conspiracy.
10-203. Curfew for minors.
10-204. Disorderly houses.
10-205. Destroying town property.
10-206. Disturbing county privy.
10-207. Disturbing public assemblies.
10-208. Offensive language.
10-209. Tampering with fire hydrants.
10-210. Indecent exposure, etc.
10-211. Obscene literature, etc.
10-212. Loitering.
10-213. Minors playing pinball machines.
10-214. Gambling.
10-215. Assisting gambling.
10-216. Keeping gambling places.
10-217. Penalty for certain licensed businesses.
10-218. Swinging trains.
10-219. Throwing missiles.
10-220. Carrying weapons.
10-221. Firing weapons.
10-222. Hunting on town property.

10-201. Bawdy houses. It shall be unlawful for any person to keep a bawdy house, house of ill fame, assignation, or knowingly to permit any tenement in his or her possession or under his or her control to be used for such purpose. [Ord. 9 of April 16, 1906, § 1]

10-202. Conspiracy. It shall be unlawful for any two or more persons to assemble within the town with the intent or, being so assembled, to agree to do any unlawful act with force or violence against the property of the town or the person or property of another or to the terror of others, or to make any movement or preparation therefor. [Ord. 2 of April 16, 1906, § 1]

10-203. Curfew for minors. It shall be unlawful for any minor under the age of 18 years to congregate, loiter, or be upon the public streets or other public places from and after the hour of 10:00 p.m., and until the hour of 6:00 a.m., upon the following morning, unless such minor is accompanied by or has the permission of his or her parent or guardian.

It shall be unlawful for any parent or guardian or any person having the custody of any such minor to permit them to do the things prohibited by this section. [Ord. 37 of April 16, 1906, § 1; ord. of June 23, 1955, §§ 1 and 2]

10-204. Disorderly houses. It shall be unlawful for any person within the limits of the town to keep a disorderly house. [Ord. 7 of April 16, 1906, § 1]

10-205. Destroying town property. It shall be unlawful to willfully destroy, injure, damage, or deface any property of the town. [Ord. of April 10, 1945, § 1]

10-206. Disturbing county privy. It shall be unlawful for any person to cut, mark, scratch, break, deface, or in any way injure the county privy or any of the fixtures thereof. [Ord. 32 of April 16, 1906, § 1]

10-207. Disturbing public assemblies. It shall be unlawful for anyone to disquiet or disturb any congregation or assembly met for religious worship or literary entertainment by making noises, by words, or by indecent behavior or profane discourse within their place of worship or assembly or so near the same as to disturb the order or solemnity of the meeting. [Ord. 3 of April 16, 1906, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-208. Offensive language. It shall be unlawful for any person to use loud, boisterous, or profane language in any public place within the corporate limits. [Ord. of Dec. 18, 1920, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-209. Tampering with fire hydrants. It shall be unlawful for any person to interfere with any fire hydrant within the corporate limits or to open any fire hydrant for any purpose except in case of fire. [Ord. of May 12, 1930, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-210. Indecent exposure, etc. It shall be unlawful for any person to appear in any public place in the town naked or in a dress not belonging to his or her sex, or in an indecent or lewd dress, or to make any indecent exposure of his or her person, or be guilty of any indecent or lewd act or behavior. [Ord. 8 of April 16, 1906, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-211. Obscene literature, etc. It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of lending, selling, or otherwise circulating or exhibiting, any book, pamphlet, ballad, movie film, filmstrip, phonograph record, or other written, printed, or filmed matter containing obscene language, prints, pictures, or descriptions manifestly intended to corrupt the morals. [Ord. 8 of April 16, 1906, § 1, modified, as renumbered by Ord. #2006-01, Feb. 2006]

10-212. Loitering. It shall be unlawful for any person without legitimate business or purpose to loiter, wander, or idle in, upon, or about any way or place customarily open to public use. [Ord. of Dec. 7, 1923, § 1, modified, as renumbered by Ord. #2006-01, Feb. 2006]

10-213. Minors playing pinball machines. It shall be unlawful for any minor to operate or participate in the operation of any so-called pinball machines or other similar devices in which money is placed or deposited in slots or other devices as a condition to playing any game of skill or chance, except that video games played for amusement only are exempted from the conditions set forth herein.

It shall be unlawful for the owner, operator, or any person having custody or charge of the machines or devices described and referred to in this section to permit any minor to operate or play at the same. [Ord. of June 23, 1955, §§ 1 and 2, modified, as renumbered by Ord. #2006-01, Feb. 2006]

10-214. Gambling. Gambling in any form shall be unlawful and it shall be unlawful for any person to play at any game of hazard or address for money or other thing of value or make any bet or wager for money or other thing of value. [Ord. of Sept. 13, 1946, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-215. Assisting gambling. It shall be unlawful for any person to encourage, promote, aid, or assist in gambling or to possess or exhibit, buy, sell, or lend any gaming device of any nature, character, or description, or to possess, harbor, store, lend, buy, or sell any device used for gaming whether originally designed for such purpose or not. [Ord. of Sept. 13, 1946, § 2, as renumbered by Ord. #2006-01, Feb. 2006]

10-216. Keeping gambling places. It shall be unlawful for any person to keep a house, shop, room, hall, or place where resort is had for purposes of gaming in any manner, or to permit the same to be done whether such person is the owner, lessee, clerk, agent, manager, operator, or overseer of such place or otherwise connected therewith. Every person so connected in maintaining such a place for such purposes, whether principal or employee, shall be guilty of a violation of this section, and any place kept for the purpose of encouraging, promoting, aiding, assisting, or harboring an act of gaming or any gaming device shall be deemed to have been kept in violation of this section. [Ord. of Sept. 13, 1946, § 3, as renumbered by Ord. #2006-01, Feb. 2006]

10-217. Penalty for certain licensed businesses. Any person convicted of gambling, assisting gambling, or keeping a gambling place as prohibited in the preceeding sections to whom a license or permit has been issued to sell beer or operate a pool room or room where similar games are played shall forfeit such license or permit immediately upon conviction in case such violation occurs in

or about the premises where such business is being carried on. Such license or permit shall not be renewed for a period of twelve months to such person so convicted or to anyone seeking to carry on the same or similar business in the same building or place of business, and forfeiture of such license shall operate as a forfeiture of any fee or tax paid for any unexpired period or term of such license. The judgment of forfeiture shall be made a part of the judgment of conviction. [Ord. of Sept. 13, 1946, § 6, as renumbered by Ord. #2006-01, Feb. 2006]

10-218. Swinging trains. It shall be unlawful for any person to swing or get off of a moving train in the limits of the town, without having business or seeing a passenger thereon. [Ord. 24 of April 16, 1906, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-219. Throwing missiles. It shall be unlawful for any person to shoot arrows or throw balls, stones, pellets, or other missiles. [Ord. 14 of April 16, 1906, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-220. Carrying weapons. It shall be unlawful to carry a concealed belt pistol, pocket pistol, revolver, or any dirk knife, bouie knife, or stilletto, or to carry in any manner any loaded cane, sword cane, sling shot, or brass, cast, or metal knucks. Provided that any officer or policeman or person summoned to aid such officers in the apprehension, arrest, or detention of criminals may carry such fire arms as are commonly used on such occasions while actually on duty and in the performance of said duty. [Ord. 19 of April 16, 1906, § 1, as renumbered by Ord. #2006-01, Feb. 2006]

10-221. Firing weapons. It shall be unlawful for any person to fire a gun, pistol, or any instrument within the limits of the town. Provided that persons who are mechanics and whose business it is to repair fire arms may be permitted to discharge guns or pistols in the limits of the town when done for the purpose of repairing same, if done or discharged in a safe and cautious way so as not to injure any person by such discharge. Police officers may also discharge guns in carrying out their duties. Provided also, that a firing or shooting permit may be obtained for special historical events. The firing or shooting permit shall be obtained from the chief of police and shall be contingent upon and subject to any safeguards that he may require. [Ord. 15, April 16, 1906, § 1 as amended by ord. of Dec. 12, 1978, modified, as renumbered by Ord. #2006-01, Feb. 2006]

10-222. Hunting on town property. It shall be unlawful for any person to hunt, whether through the use of firearms, bows and arrows, or any other weapon as may be defined under state code, on property owned by the Town of Jonesborough, including town parks, facilities open space areas, or public ways, whether inside or outside of the Jonesborough corporate limits. Animal control officers or other law enforcement officers may undertake such "hunting" activity as may be required to provide for the safety and protection of Jonesborough and area residents, and town staff is hereby authorized to post all town property to prevent hunting as may be defined under state law. (as added by Ord. #2008-15, Nov. 2008)

CHAPTER 3

NOISE ORDINANCE

SECTION
10-301. Short title.
10-302. Disturbing the peace.
10-303. Protection for intimidation.
10-304. General.
10-305. Anti-noise regulations.
10-306. Exceptions.
10-307. General provisions; test for unlawful use.

10-301. Short title. This chapter shall be known as the Noise Ordinance of the Town of Jonesborough. [as added by Ord. #2006-01, Feb. 2006]

10-302. 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 premise owned or possessed by him or under his control. A person who violates Tennessee Code Annotated, § 39-17-305 is also in violation of this section. [as added by Ord. #2006-01, Feb. 2006]

10-303. Protection for intimidation. The Jonesborough Board of Mayor and Aldermen finds and declares that it is the right of every person regardless of race, color ancestry, religion or national origin to be secure and protected from fear, intimidation, harassment and bodily injury caused by the activities of groups and individuals. It is not the intent of this section to interfere with the exercise of rights protected by the Constitution of the United States. The Jonesborough Board of Mayor and Aldermen 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. The board of mayor and aldermen further finds that the advocacy of unlawful acts by groups or individuals against other persons or groups for the purpose of inciting or provoking damage to property and bodily injury or death to persons is not constitutionally protected, poses a threat to public order and safety, and should be subject to criminal sanctions.

1. A person commits the offense of intimidating others from exercising civil rights who:

   a. Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the constitution and laws of the state.

b. Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another because that other person exercised any right or privilege secured by the constitution or laws of the state.

c. Damages, destroys or defaces any real or personal property of another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the state.

d. Damages, destroys or defaces any real property of another person with the intent to unlawfully intimidate another because that other person exercised any right or privilege secured by the constitution or laws of the state.

2. It is an offense for a person to wear a mask or disguise with the intent to violate §§ 10-303 1 (a-d) of this chapter.

3. The penalties provided in this code for intimidating others from exercising civil rights do not preclude victims from seeking any other remedies, criminal or civil, otherwise available under law.[1] [as added by Ord. #2006-01, Feb. 2006]

10-304. General. Subject to the provisions of this Chapter, 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. [as added by Ord. #2006-01, Feb. 2006]

10-305. Anti-noise regulations. Subject to the provisions of this chapter and § 10-303, the creating of any unreasonably loud, disturbing, and unnecessary noise which annoys, injures or endangers the comfort, repose, health, peace or safety of others within the corporate limits of Jonesborough is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health on an individual or that annoys or disturbs the peace and quiet of Jonesborough is also prohibited.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of the section, but this enumeration shall not be deemed to be exclusive, namely:

1. Blowing horns, signaling devices, etc. The sounding of any horn or other such device on any automobile, motorcycle, truck or other vehicle except as a danger warning on a public street or public place of the town; any unreasonably loud or harsh sound by any other signaling device; or the sounding of such devices for an unnecessary and unreasonable period of time.

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[1]Sate law reference

Tennessee Code Annotated, § 39-17-309.

2. Radio, television, stereos, live bands, amplifiers, loud speakers, etc. The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, television, live band, amplifiers, loud speakers, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, chamber, or area in which such live band, machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, live band, machine or device between the hours of 11:00 P.M. and 7:00 A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.

3. Loud speakers, amplifiers for advertising. The using, operating, or permitting to be played, used or operated of any radio, receiving set, musical instrument, phonograph or stereo, loud speakers, sound amplifier or other machine or device for the producing or reproducing of sound which is broadcast upon public streets or public ways for the purpose of commercial advertising or attracting the attention of the public to any building, structure or service.

4. Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, public parks, open spaces, and public areas or in parking lots of commercial businesses open to the public or at any time or place so as to disturb or annoy the quiet, comfort or repose of any dwelling, hotel, office, medical facility or other type of residence, or of any persons in the vicinity.

5. Animals, birds, pets, etc. The keeping of any animal, bird or fowl which by causing, frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

6. Use of vehicles. The use of any automobile, semi-truck, four-wheeler, go-cart, motorcycle or other such vehicle in such a manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

a. The use of any vehicle by acceleration or unnecessary braking or creating unnecessary noise otherwise known as squalling tires.

b. Truck tractors and semi-trailers, as defined in Tennessee Code Annotated, § 55-1-101, shall not use an engine compression braking device unless the engine compression braking device is equipped with an operational approved muffler. As used in this section, "approved muffler" means any muffler that complies with Federal Motor Carrier Safety Regulations on noise emissions, 49CFR 325, et seq.

c. The use of any vehicle so out of repair or loaded in such a manner as to cause loud and unnecessary noise.

7. 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 containers particularly other than during the hours between 7:00 A.M. and 6:00 P.M.

8. Construction or repairing of buildings. The creation of any loud and excessive noise in creation with the erection, including excavation, demolition, alteration or repair of any building in any residential area or section other than between the hours of 7:00 A.M. and 9:00 P.M. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit or written authorization from the building inspector or town administrator granted for a period while the emergency or urgent public necessity continues, and not for a period exceeding thirty (30) days without re-authorization, or upon a schedule approved by the board of mayor and aldermen.

9. Pile drivers, hammers, etc. The operation of any pile driver, steam shovel, construction equipment, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud and unusual noise, between the hours of 9:00 P.M. and 7:00 A.M. without an authorizing permit from the building inspector or town administrator, or upon a schedule approved by the board of mayor and aldermen.

10. Noises near schools, hospitals, churches, etc. The creation of any loud and excessive noise on any street or area adjacent to any school, institution of learning, church, public building or court while the same is in session or use provided such facilities are properly identified with signage. [as added by Ord. #2006-01, Feb. 2006]

10-306. Exceptions. Although every effort must be made to minimize noise and its negative impact on residents, none of the terms or prohibitions hereof shall apply to or be enforced against:

1. Any vehicle of the Town of Jonesborough while engaged upon necessary public business.

2. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of an emergency.

3. 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 remedies it impracticable to perform such work during the day.

4. The reasonable use of amplifiers or loud speakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations without a permit or a letter of written authorization from the public safety director or town administrator.

5. Noises of safety signals and warning devices

6. Noises from non-amplified church bells and chimes.

7. Noises resulting from a parade, scheduled outdoor athletic event, fireworks display, or any event which has been sanctioned by the town.

8. Noises resulting from a street fair, block party, or other special event as defined in title 12, chapter 4 of the Jonesborough Municipal Code between the hours of 7:00 A.M. and 11:00 P.M.

9. Noise(s) from trains and other associated railroad rolling stock when operated in proper repair and manner.

10. Construction operations between the hours of 7:00 A.M. and 9:00 P.M. for which building permits have been issued or construction operations for which no permit is required, provided that all construction equipment is operated according the manufacturer's specifications and mufflers are maintained in proper working order.

11. Domestic power tools, lawn mower, and agricultural equipment, between the hours of 7:00 A.M. and 9:00 P.M. provided it is properly operated with all manufacturer's standard noise-reducing equipment in place and in properly operating condition. [as added by Ord. #2006-01, Feb. 2006]

10-307. General provisions; test for unlawful use. The standards which shall be considered in determining whether a violation of the ordinance has occurred shall include, but not be limited to, the following:

1. The volume of noise;
2. The intensity of noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural;
5. The volume and intensity of the background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature and zoning of the area within which the noise emanates;
8. The density of inhabitation of the area within which the noise emanates;
9. The time of the day or night the noise occurs;
10. The duration of the noise;
11. Whether the noise is recurrent, intermittent or constant;
12. Whether the noise is produced by a commercial or non-commercial activity. [as added by Ord. #2006-01, Feb. 2006]

TITLE 11

PLANNING AND ZONING

CHAPTER
1. MUNICIPAL PLANNING COMMISSION.
2. PEAK STORMWATER MANAGEMENT, EROSION AND SEDIMENTATION CONTROL.
3. FLOODPLAIN MANAGEMENT.
4. FLOODPLAIN ZONING ORDINANCE.
5. GENERAL PROVISIONS RELATING TO ZONING.
6. LANDSCAPING REQUIREMENTS.
7. EXCEPTIONS AND MODIFICATIONS.
8. ENFORCEMENT.
9. BOARD OF ZONING APPEALS.
10. HISTORIC ZONING PROVISIONS.
11. AMENDMENT.
12. BUSINESS AND ADVERTISING SIGNS.
13. MOBILE HOMES.
14. HOME OCCUPATIONS.
15. DISH ANTENNAS AND TELECOMMUNICATION TOWERS.
16. DEMOLITION BY NEGLECT.
17. OUTDOOR LIGHTING ORDINANCE.
18. PERMANENT WATER QUALITY STORMWATER MANAGEMENT.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION
11-101. Creation and purpose.
11-102. Membership.
11-103. Organization, rules, staff, and finances.
11-104. Powers and duties.
11-105. Public notification.

11-101. Creation and purpose. In order to guide and accomplish a coordinated and harmonious development of the town which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare as well as efficiency and economy in the process of development, a municipal planning commission is hereby created and established as authorized by Tennessee Code Annotated,

title 13, chapter 4, part 1, and the planning commission shall be organized and empowered as provided in this chapter. (Ord. of June 8, 1967)

11-102. Membership. The municipal planning commission shall consist of nine (9) members. One (1) of the members shall be the Mayor of the Town of Jonesborough or a person designated by the mayor. One (1) shall be a member of the board of mayor and aldermen, selected by said board. Five (5) members shall be citizens of Jonesborough approved by the mayor. Two (2) members shall be citizens of Washington County appointed by the mayor who reside outside of Jonesborough's corporate limits but within Jonesborough's planning region. The terms of the seven (7) appointive members shall be for three (3) years. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove an appointive member at his or her pleasure. The term of the member selected from the board of mayor and aldermen shall run concurrently with his or her membership on the board of mayor and aldermen. All members shall serve without compensation. (Ord. of June 8, 1967, as amended by Ord. #96-06, July 1996, and replaced by Ord. #2007-10, Sept. 2007)

11-103. Organization, rules, staff, and finances. The planning commission shall elect its chairman from among its appointive members. The term of chairman shall be one (1) year with eligibility for re-election. The planning commission shall adopt rules for the transactions, findings, and determinations, which record shall be a public record. The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with town planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the board of mayor and aldermen. (Ord. of June 8, 1967)

11-104. Powers and duties. From and after the time when the planning commission shall have organized and selected its officers, together with the adoption of its rules or procedures, then it shall have all the powers, duties, and responsibilities as authorized by all applicable provisions of Tennessee Code Annotated, title 13 or other acts relating to the duties and powers of municipal planning commissions adopted subsequent thereto. (Ord. of June 8, 1967)

11-105. Public notification. The planning commission shall attempt to provide written notification of any rezoning requests to either the ten (10) closest adjacent property owners or every property owner within two hundred feet (200') of the property requested to be rezoned, whichever will potentially result in contacting the most property owners. Said notification shall be no fewer than ten (10) calendar days before the commission meets to consider the request with the time requirement beginning the day the notification is

postmarked or delivered to the residence if not mailed. The planning commission shall notify adjacent property owners in writing of any rezoning request a minimum of ten (10) calendar days before the commission meets to consider the request. Notification shall include identification of the parcel, current zoning status, the requested zone, and the date, location and time of the planning commission meeting in which the request will be considered. In addition, the planning commission will direct the building inspector, or his/her designee, to erect a sign on the parcel requested to be rezoned, stating the zone requested and the date and location of the meeting in which the rezoning request will be considered. Said sign will be erected a minimum of ten (10) days before the meeting in which the request is considered, shall be erected in the most visible location to the general public, and shall be a minimum size of two feet (2') by three feet (3'). A notification fee of two hundred fifty dollars ($250.00) must accompany any rezoning request made to the Jonesborough Planning Commission. (as added by Ord. #93-09, Oct. 1993, and amended by Ord. #2007-02, March 2007)

CHAPTER 2

PEAK STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

SECTION

11-201. Short title.
11-202. Purpose.
11-203. Definitions.
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11-220. Technical assistance.
11-221. Building inspector and/or public works director responsible for providing safeguards in projects less than one acre or utilizing less than three lots.
11-222. Grading permit also required for any project on less than one acre involving grading, filling, or excavating.
11-223. Existing developed properties with drainage, erosion and sediment concerns.
11-224. Improvements needed at existing locations/developments determined by the building inspector and/or director of public works.
11-225. Improvements required in existing developments normally at owner's expense.
11-226. Town may take responsibility for existing stormwater management facilities and drainage structures.
11-227. Improvements required with existing developments subject to appeal.

11-228. Monitoring, reports, and inspections.
11-229. Certificate of occupancy not issued until approvals.
11-230. Plan construction acceptance and bond release.
11-231. Appeal of administrative action.
11-232. Town clean-up resulting from violations at owner/developer's expense.
11-233. Illicit discharge and illegal dumping.
11-234. Penalties; enforcement.
11-235. Severability.

11-201. Short title. This chapter shall be known as the "Peak Stormwater Management and Erosion and Sediment Control Ordinance of the Town of Jonesborough, Tennessee." (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-202. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Jonesborough; and promote the public health and welfare of the people by establishing requirements for the peak flow control of stormwater, erosion and sediment and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the run-off of excessive stormwaters and associated pollutants; and to reduce flooding and the hydraulic overloading of the town's stormwater system; and to reduce the economic loss to individuals and the community at large. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-203. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Adequacy of outfalls." The capacity of the receiving channel, stream, waterway, storm drain system, etc., and a determination whether it is adequately sized to receive runoff from the developed site so as to not cause erosion and/or flooding.

(2) "Best Management Practices (BMPs)." A schedule of activities, prohibitions of practices, design, construction and maintenance procedures, and other management practices to prevent the pollution of stormwater runoff.

(3) "Development." Any activity on one (1) acre or more or on three (3) lots or more that involves making changes to the land contour by grading, filling, excavating, removal, or destruction of topsoil, trees, or vegetative covering.

(4) "Denuded area." Areas disturbed by grading, tilling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion and stormwater and sediment run-off.

(5) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(6) "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water/stormwater.

(7) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Jonesborough's stormwater system; lying within or forming a part of the boundaries of the Town of Jonesborough, or the areas under the regulatory responsibility of the Jonesborough Planning Commission that are adjacent to or intended to be served by the Jonesborough Sewer System.

(8) "Enforcement officer." The building inspector, the public works director or any other person designated by the Jonesborough Board of Mayor and Aldermen to enforce the stormwater management, erosion and sediment control ordinance.

(9) "Erosion." The general process whereby soils are moved by flowing surface or subsurface water.

(10) "Exceptional and historical trees." Those trees or stands of trees that are exceptional representatives of their species in terms of size, age, or unusual botanical quality, or which are associated with historical events.

(11) Exceptional waters of the state." Surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters with exceptional biological diversity or other waters with outstanding ecological or recreational value as determined by the State of Tennessee.

(12) "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, an enforcement officer, before any land disturbing activity is undertaken by a developer; or when grading, filling, or excavating is proposed on any project. Even though issued separately, grading permit fees shall be covered under the cost of building permits.

(13) "Impaired waters of the state." Any segment of surface waters that has been identified by the State of Tennessee as failing to support classified uses. The State of Tennessee periodically compiles a list of such waters known as the 303(d) list.

(14) "Land disturbing activity." Any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways,

or local waters, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

(a) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.

(b) Construction, installation or maintenance of utility lines and individual service connections, or septic lines and drainage fields.

(c) Emergency work to protect life, limb or property.

(15) "Stormwater management facility." Term is used in a general sense to mean retention ponds, detention ponds, sediment basins, sediment traps, and any other structure that is constructed to reduce or control stormwater run-off and prevent silt and other pollutants from entering the town's waterways. When terms such as sediment basins and detention ponds are used in this chapter, they are also intended to describe a variety of possible structures whose applications in certain circumstances helps control stormwater and waterway pollutants.

(16) "Stormwater plan." For the purpose of this chapter; a stormwater plan refers to a formal written document and/or drawing addressing grading, stabilization using vegetation, stormwater conveyance, stormwater management, and erosion and sediment controls, as specified in §§ 11-205 through 11-208, that is reviewed by the public works director and/or building inspector with possible other technical assistance as deemed necessary, reviewed by the Jonesborough Planning Commission, and if approved by the planning commission is used as the basis for the building inspector to issue a grading permit that allows land disturbing activity to proceed.

(17) "SWPPP (Stormwater Pollution Prevention Plan)." This is a combination of an erosion and sediment control plan and a narrative in accordance with the State of Tennessee's current construction general permit.

(18) "Waters of the state." Defined in the Tennessee Water Quality Control Act and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to effect a junction with natural surface or underground waters. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999; Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-204. Regulated land disturbing activities. (1) Except as provided in §§ 11-204(2) and (3), it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, on any multi-family development, or any single-family development, construction, or renovation activity involving at least one (1) acre of land disturbance, construction activity that is part of a larger common development or sale that would disturb at least one (1) acre of land, or three (3) lots or more without submitting and obtaining

approval of a stormwater plan as detailed in §§ 11-206 through 11-209 of this chapter, and being issued a grading permit by the building inspector.

(2) Any person who owns, occupies and operates private agriculture or forest lands shall not be deemed to be in violation of this chapter of land disturbing activities which result from the normal functioning of these lands, however, the public works director and the building inspector have the authority to require "best practices" erosion and sediment control measures if pollution and run-off problems are evident.

(3) Any state or federal agency not under the regulatory authority of the Town of Jonesborough for stormwater management, erosion and sediment control. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-205. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit, which must be issued by the building inspector prior to the commencement of any work. Grading permits for regulated land disturbing activities as defined in § 11-204 will be issued by the building inspector only upon the developer meeting requirements outlined in §§ 11-206 through 11-209 of this chapter which includes obtaining approval of a stormwater plan by the Jonesborough Planning Commission. Building permit fees will cover the cost of obtaining a grading permit.

A grading permit is also required for any development or construction activity on less than one (1) acre of land. However, said development and construction activities do not require a formal stormwater plan unless they are commercial or multi-family developments or a stormwater plan is specifically requested by the planning commission.

A pre-construction meeting shall be held between the Town of Jonesborough and the developer (or their representative) for any project that discharges directly into or is immediately upstream of a siltation or stream-side habitat impaired or exceptional waters of the state. No grading operations may take place until after the pre-construction meeting and perimeter sediment control devices are in place and functional. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-206. Stormwater plan required. A stormwater plan shall be required for all developments, subdivisions, or construction activities involving one (1) or more acres of land disturbance, construction activity that is part of a larger common development or sale that would disturb at least one (1) acre of land, or three (3) lots or more, except as exempted in §§ 11-204(2) and 11-204(3) of this chapter. A stormwater plan shall be required for all commercial construction

or renovation, or any multi-family residential facility regardless of the acreage or number of units. If necessary to protect the health and safety of the people, the planning commission may, at its discretion, require a stormwater plan for any development or renovation under an acre, or single-family subdivision with less than three (3) lots. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-207. Plan requirements. The stormwater plan shall be prepared and designed by a registered design professional qualified to prepare stormwater plans in accordance with State of Tennessee law and in accordance with the current State of Tennessee Construction General Permit, where applicable. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage.

For projects which require a construction general permit through the State of Tennessee, the SWPPP (plan and narrative) shall be prepared by a person in accordance with the current State of Tennessee Construction General Permit and submitted to the town. The SWPPP shall contain all required information as required by the current State of Tennessee Construction General Permit. Be aware that the requirements for projects which drain into impaired or exceptional waters of the state are different than for projects draining to an unimpaired water of the state.

The plan shall include at least the following:

(1) Project description: Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(2) Contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(3) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or floodplains.

(4) A general description of existing land cover; individual trees and shrubs do not need to be identified.

(5) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown in feet per inches. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately but must meet guidelines established in chapter 6 of title 11 of the municipal code. The plan must include the sequence of implementation for tree protection measures.

(6) Limit of disturbance showing approximate limits of proposed clearing, grading and filling.

(7) Drainage area map showing pre- and post-development stormwater leaving any portion of the site.

(8) A general description of existing soil types and characteristics and any anticipated soil erosion and sediment problems resulting from existing characteristics.

(9) Location, size, details, and layout of proposed stormwater management improvements. Provide appropriate details such as a profile through the principal spillway with cut-off trench, anti-seep control, trash rack details, compaction/backfill details or notes, riser detail, outlet stabilization, and emergency spillway detail for detention ponds and other details/sections as needed for the contractor to build the structures.

Any opening in a riser structure and its overflow shall have a trash rack to prevent the openings, the riser, and/or the principal spillway from becoming clogged. The trash racks shall not be flat across the openings.

Provide hydraulic calculations sealed by a registered professional engineer for stormwater facilities. As a minimum, the calculations shall include a pre- and post-development drainage area map, brief narrative, pre- and post-development run-off data, and routing calculations to determine the outflow rate.

(10) Proposed closed and open drainage network.

(11) Proposed storm drain or waterway sizes.

(12) Location and amount of stormwater run-off leaving site after construction and stormwater management measures proposed. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development. When water is concentrated, what is the capacity of waterways and storm drains, if any, accepting stormwater off-site, and what measures, including infiltration, sheeting into buffers, outfall setbacks, etc., are to be used to spread concentrated run-off and prevent the scouring of waterways and drainage areas off-site.

If the downstream storm drain or waterway is not of sufficient size to handle the post-development run-off, or even the pre-development a review shall be undertaken to determine if any reasonable accommodation can be given in the stormwater plan to reducing the likelihood of problems downstream. The plan will be expected to address, to the extent reasonable, improvements that will reduce the release rate to no greater than the capacity of the downstream storm drains or waterways.

Outfall pipes from storm drain systems and stormwater management facilities shall be setback sufficiently from off-site properties to allow the concentrated water to spread out back to pre-development flow characteristics. Under no circumstance shall an outfall pipe, as measured from the end section, headwall, or pipe, if no end structures used, be any closer than ten feet (10')

from the off-site property unless a drainage easement from the off-site property owner is obtained and recorded. The outfall setback shall be determined by the engineer and shall be based on outflow rate and the receiving channel or pipe characteristics.

Stormwater discharge from a concentrated point such as a pipe outfall shall discharge onto rip-rap or other velocity/energy dissipating method to reduce erosion potential. All rip-rap or other stone used to reduce velocity shall be placed on a geotextile to prevent scouring and the stone from sinking into the underlying soil.

The overflow path through the site and from any stormwater management device for stormwater run-off above the design storm event shall not impact any structure.

(13) The projected sequence of construction represented by the grading, drainage and erosion and sediment control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or stormwater facilities. The sequence of construction is a vital component of the stormwater plan and it explains to the contractor, and building inspector, when the drainage and sediment control devices are to be in place.

The sequence of construction shall state that no clearing or grading may begin until all perimeter sediment control devices are in place and functional.

(14) Specific remediation measures to prevent erosion and sediment run-off and to meet approved standards as outlined in § 11-208 of this chapter. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetative measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

If a detention pond is to be used initially as a temporary sediment basin, then appropriate details and notes shall be provided showing how the pond will increase the residence time of the sediment laden water and when and how the sediment basin is to be converted to a permanent detention pond. Typically this conversion occurs once the upland drainage area to the pond has been stabilized. The sequence of construction shall include notes on when these activities are to take place.

The use of earth berms/dikes, swales, sediment traps, outlet structures, and sediment basins are strongly encouraged over the use of silt fence and straw bales for long term projects and where concentrated run-off is present.

All disturbed areas that will not be disturbed again within fourteen (14) days shall be temporarily or permanently stabilized with seed, mulch, and/or other appropriate measures within fourteen (14) days of grading or clearing operations ceasing. It is very important that disturbed soil be stabilized as soon as possible to prevent sediment run-off. For slopes 3:1 or steeper, they must be temporarily or permanently stabilized within seven (7) days of grading ceasing on those slopes.

(15) A stone construction exit per the Tennessee Sediment Control Handbook shall be provided for all construction ingress/egress points for all construction projects including single lot construction. This is required in order to prevent mud, sediment, and debris on Jonesborough streets and public ways at a level acceptable to the public works director or building inspector. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the public works director. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter.

It is the contractor's responsibility to prevent sediment from leaving the construction site and this includes sediment leaving the site by way of run-off flowing out the entrance or by vehicular tires carrying the sediment into the street. If there is run-off flowing down the construction exit to the street, a mountable stone berm or equivalent measures shall be used to direct the run-off to sediment control devices adjacent to the exit. The use of smaller stone or gravel other than shown in the Tennessee Sediment Control Handbook is not permitted.

(16) Proposed structures, location (to the extent possible) and identification of any proposed additional building, structures or development on the site.

(17) A description of on-site measures to be taken to recharge surface water in to the groundwater system through infiltration, if appropriate for the site.

(18) The plan must have the seal of the design professional responsible for creating the plan. The stamped and signed plan, if approved, shall be copied and be the official plan that must be available in the field during construction. (as added by Ord. #99-12, Sept. 1999, and replaced by Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-208. Plan must contain measures to meet approved standards. The stormwater plan shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

(1) The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sediment control measures to be implemented in a manner satisfactory to the Jonesborough Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion.

(2) Plans for development and construction shall seek to minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling shall be justified to the Jonesborough Planning Commission.

(3) During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut

face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their floodplains; or constructed channels in a manner so as to adversely affect other properties.

(4) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed prior to obtaining a grading permit. Perimeter sediment controls shall be in place prior to the start of clearing or grading operations.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and fills should preferably be 3:1 slopes or flatter; however, they shall not exceed a 2:1 slope without planning commission approval and must be permanently seeded and/or stabilized. Regardless of the method used, the objective is to leave the site as erosion and maintenance free as is practical.

(6) Provisions are implemented that accommodate any increased in stormwater run-off generated by the development in a manner in which the pre-development levels of run-off for the two- and ten-year storm events are not increased during and following development and construction. The board of mayor and aldermen reserves the right to require stormwater management to maintain pre-development levels of run-off for the 25-, 50-, 100-year storm event, when it is determined that it is in the best interest of the town to consider "partnering" with the developer to further reduce stormwater flows onto adjoining properties or if a known flooding problem exists downstream.

Any stormwater detention or retention pond shall also be designed to pass the 100-year storm (peak attenuation to the 100-year pre-development rate is not required) through the pond without over topping any portion of the dam. This can be accomplished through the principal spillway and emergency spillway, which shall be installed on virgin soil and not to be placed on fill material or the dam. If it is not feasible to place the emergency spillway on virgin soil then the principal spillway shall be designed for the 100-year storm.

To the extent necessary, sediment in run-off water must be trapped by the use of sediment basins, silt traps or other sediment control measures until the disturbed area is stabilized. Structural controls shall be designed and maintained as required to prevent pollution. The town strongly encourages the use of sediment traps/basins and earth berms/dikes for sediment control measures. Silt fence may be used but should not always be the first or only device considered.

All off site surface water flowing toward the construction or development area shall, to the extent possible, be diverted around the disturbed area by using berms, channels, or other measures as necessary. Limiting the amount of run-off, especially concentrated run-off, from flowing through the construction site can be extremely helpful in preventing or significantly reducing sediment run-off. Under no circumstances, unless a drainage easement is obtained, may be diverted off site run-off be redirected onto off site properties or be diverted

onto an off-site property's existing drainage way in a manner that would cause harm to the property.

(7) All grading, vegetation, drainage, stormwater, erosion and sediment control mitigation measures shall conform to any or all best management practices approved and revised from time to time by the board of mayor and aldermen and meet the requirements of the current State of Tennessee's Erosion and Sediment Control Handbook.

(8) All perimeter sediment control devices such as earth berms/dikes, swales, sediment basins, sediment traps, and other perimeter drainage and sediment control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or sediment traps may be temporary, but shall not be removed without the approval of an enforcement officer.

(9) Existing trees shall not be cut or otherwise damaged or destroyed within portions of the property to be used for required open space, if required, setback or buffer requirements of the Jonesborough Zoning Ordinance or the Jonesborough Landscape Ordinance, without the formal approval of the Jonesborough Planning Commission. When hardships or development problems exist in these areas, the Jonesborough Planning Commission may entertain plans that include planted trees and vegetation in setback and buffer areas.

The town strongly encourages the developer or builder to not remove existing trees in order to construct a stormwater management facility.

(10) Heritage trees in setbacks, buffer strips and required open spaces shall not be removed without receiving approval of the Jonesborough Planning Commission. The Jonesborough Building Inspector, with the possible technical assistance of the Washington County Extension Agent and the soil conservationist, shall make the initial determination related to any exceptional and/or historical trees prior to review by the planning commission and the issuance of grading and building permits.

(11) A permanent undisturbed buffer shall be provided from the top of bank along both sides of streams, rivers, lakes, wetlands, or other waters of the state except as necessary for the installation of utilities, development of roads crossing the waterway, trails and walkways, or construction of outfalls for stormwater facilities and related drainage improvements and for removal of invasive species to enhance the existing buffer. These utility, road, trail/walkway, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the waters of the state and their buffers. Any disturbance to streams, wetlands, or other waters of the state require an aquatic resource alteration permit through the State of Tennessee.

The buffer widths are based on the drainage area to the point along the stream or other waters of the state where the buffer is being determined:

(a) For drainage area less than one (1) square mile, the buffer is thirty feet (30').

(b) For drainage areas one (1) square mile or more, the buffer is sixty feet (60') average with a thirty foot (30') minimum width. To use the sixty foot (60') average/thirty foot (30') minimum method, it must be shown that the straight sixty foot (60') width would be a hardship to developing the property and may not be based solely on the difficulty or the cost of implementation.

If it is not practical to provide the required buffer or only a portion of the buffer can be provided, approval through the Town of Jonesborough Board of Zoning Appeals must be obtained. Justification for this variance must be justified in accordance with the Town of Jonesborough Board of Zoning Appeals criteria.

During construction, a temporary thirty foot (30') average (fifteen foot (15') minimum) undisturbed buffer or equivalent measures, shall be provided from the top of the stream bank. If the stream or water of the state is impaired due siltation or streamside habitat removal or is an exceptional water of the state, the temporary undisturbed buffer during construction is increased to a sixty foot (60') average (thirty foot (30') minimum) or equivalent measures.

(12) Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees intended to be preserved. Stockpiled soils shall have silt fencing or other sediment control measures surrounding, and shall be located away from street, curbs and drainage ways to prevent sediment from getting into local waters or streets and public ways.

(13) Land shall be developed to the extent possible in increments of workable size, which can be completed in a single construction season, spring to fall. Erosion and sediment control measures shall be coordinated with the sequence of construction, development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any next stage of development.

(14) The permanent vegetation shall be installed on areas of the construction site that are outside of the building area, pad or footprint, as soon as utilities are in place and final grades are achieved. Without prior approval of an alternate plan by the Jonesborough Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas outside of the building pad or footprint within fourteen (14) days from substantial completion of grading, or where these disturbed areas outside the building site will remain unfinished for more than fourteen (14) calendar days. The building area should be stabilized with a concrete pad or the footprint covered with gravel.

(15) Stormwater management facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders, except no woody vegetation such as trees and shrubs shall be planted on dam areas or within twenty-five feet (25')

of the dam. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in best management practices.

Landscaping of detention ponds shall be in accordance with the Town of Jonesborough Detention Pond Landscape Manual.

(16) In many situations stormwater management facilities and drainage structures need to be fenced in order to protect public safety. The Jonesborough Planning Commission may require fencing for any basin or structure. When fencing is required, the following specifications apply:

(a) Height minimum of forty-two inches (42").

(b) For residential areas and high visibility commercial areas, the fencing shall be split rail with black or green vinyl coated wire attached, or some other type of attractive fencing but shall not be chain link fencing.

For commercial and industrial uses, the fencing may be chain link up to six feet (6') tall if the fencing is not visible from residential zone or used property or a public right-of-way. Under no circumstances may barbed wire be used.

(c) A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as needed for maintenance.

(d) An adequate access road to the gate sufficient for maintenance vehicles and equipment.

The Jonesborough Planning Commission may consider and approve other fencing alternatives; provided that the alternatives presented meet minimum safety and security objectives.

(17) Stormwater plans must meet minimum requirements established by the State of Tennessee's Construction General Permit, where applicable, and in their erosion and sediment control handbook. If there is a conflict between these regulations and the State of Tennessee's regulation, the most stringent regulation shall apply.

All erosion and sediment control devices shall be designed for the two (2) year, 24-hour storm as a minimum. For drainage area of ten (10) acres or more to a single outfall point, a sediment basin(s) or equivalent measures shall be used and designed for the 2-year, 24-hour storm.

For projects which drain into an impaired or exceptional water of the state, the erosion and sediment control devices shall be designed for the 5-year, 24-hour storm and a sediment basin or equivalent measures shall be used for drainage areas of five (5) acres or more to a single outfall point.

(18) The Town of Jonesborough wishes to minimize the negative effects of development on our environment, on our economy, and on our health while at the same time reducing development costs for the developers and maintenance costs for the town and the developer. All efforts should be utilized to implement site design and non-structural stormwater management practices to reduce and minimize runoff in new development. Efforts to enhance

infiltration, passage or movement of water into the soil surface, reduction of hard surfaces, minimizing the concentration of runoff, and lengthening of the time of concentration should be a priority.

The following BMPs and stormwater credits can be applied to the peak and water quality stormwater calculations thereby reducing the size and cost of the stormwater BMPs:

(a) Natural area conservation. The preservation of forest, wetlands, pasture land, and other sensitive areas of existing vegetation thereby retaining pre-development hydrologic and water quality characteristics. If these areas are undisturbed and placed in a recorded protective easement, these areas may be subtracted from the total site area when calculating water quality volume. The post development curve numbers for these areas can be modeled as forest in good condition.

(b) Disconnection of rooftop runoff. Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water from the pipe across vegetated areas, the greater the filtering and infiltration of the run-off which in turn improves water quality and reduces downstream run-off.

If the lot is graded to disperse the rooftop runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the rooftop impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If reforestation or planted landscape beds equal in area to fifty percent (50%) of the rooftop area is placed in the path of the disconnected rooftop runoff, then the remaining fifty percent (50%) of the rooftop impervious area may be modeled as grass in good condition when calculating the post development curve number.

If the rooftop runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the rooftop impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

In addition, under both conditions listed above, the total impervious area in the water quality calculations may be reduced relative to the impervious area reduction associated with the curve number credit.

If downspouts need to be piped away from building foundations to prevent damage to the foundations, the pipes must outfall at least ten feet (10'), preferably further, from any property line. If the downspouts are piped and the runoff cannot disperse in accordance with the above requirements, no stormwater credit is available.

(c) Disconnection of non-rooftop impervious runoff. Rooftop runoff that is disconnected from another impervious surface and directed

over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water across vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

Discharging run-off from impervious surfaces onto pervious surfaces through the use of pervious pavers, permeable paving surfaces, rain gardens/bioretention facilities, grassed swales, use of open road sections in lieu of curbed roads, and by grading the site so that run-off travels from an impervious surface to a pervious surface before being collected in a drainage system. All of these increase filtering and infiltration of stormwater before the flows become concentrated and this in turn improves water quality and reduces downstream run-off which means pipes, swales, ditches, and stormwater facilities can be smaller.

Avoid sending run-off from one (1) impervious surface directly onto another impervious surface. Place pervious surfaces between impervious surfaces along the run-off path.

If the site is graded to disperse the impervious runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If the impervious runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

(d) Sheet flow. Maintain sheet flow for as long as possible before the run-off has to be collected in a stormwater conveyance system. Sheet flow increases infiltration and lengthens the time of concentration which in turn improves water quality and reduces run-off downstream. Spread out concentrated flows created by the development before they are discharged offsite using stilling basins, level spreaders, directing run-off through woodlands, or other means so the run-off returns to pre-development characteristics to meet the adequacy of outfall provision of this chapter and to improve water quality and reduce run-off downstream.

(e) Grass channels in lieu of piping or hard surface channels.

(f) Environmentally sensitive development. Maintaining/not disturbing environmentally sensitive areas such as streams, stream buffers, existing woodlands, existing steep slopes, wetlands, etc., the reduction of cut and fill, excavating, etc. and the appropriate balance of buildings and parking on the development site.

(g) Improvements to and the reduction in the impervious areas on the development site. Design parking lots with the minimum amount

of hard surface required to meet the zoning regulations. If additional parking area is desire, the town strongly encourages the employee and/or overflow parking areas to be constructed in a more pervious material than asphalt or concrete. If the parking regulations require excessive parking for your type of development, discuss the issue with the town staff. If the town staff feels a reduction in the number of required parking spaces is justified, a variance can be submitted to the board of zoning appeals to reduce the parking requirements which in turn will reduce the amount of impervious surface installed.

(h) Increased use of trees, shrubs and ground cover, which absorb up to fourteen (14) times more rainwater than grass and require less maintenance.

(19) Neighboring persons and property shall be protected from damage or loss resulting from an increase in stormwater run-off above the pre-development rate, soil erosion, or the deposit upon private property, public streets or rights-of-way of silt and debris transported by water from construction, excavating, grading, etc. associated with a development. (as added by Ord. #99-12, Sept. 1999, and replaced by Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, and Ord. #2008-13, Oct. 2008, amended by Ord. #2009-10, Sept. 2009, replaced by Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***, and amended by Ord. #2018-05m May 2018 ***Ch13_03-08-21***)

11-209. Permit application. In addition to the stormwater plan, applications for a grading permit involving land disturbing activities must include the following:

(1) Name of applicant.

(2) Business or residence address of applicant.

(3) Name and address of owner(s) of property involved in activity.

(4) Address and legal description of property, and names of adjoining property owners.

(5) Name, address and state license number of contractor, if different from applicant, and to the extent possible any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the stormwater plan.

(6) A brief description of the nature, extent, and purpose of the land disturbing activity.

(7) Proposed schedule for starting and completing project. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-210. Plan development at owner/developer's expense. Unless approved by the board of mayor and aldermen, all stormwater plans shall be developed

and presented at the expense of the owner/developer. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-211. Plan submitted to building inspector. Four (4) copies of the stormwater plan shall be submitted directly to the building inspector who will direct a copy to any other enforcement officer or department, and may provide copies to the soil conservationist and extension agent or others for review. Any insufficiencies and violations determined by the building inspector and other enforcement officer(s) shall be noted and comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Jonesborough Planning Commission. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-212. Plan submitted in number satisfactory to planning commission. The Jonesborough Planning Commission shall determine the number of copies of the stormwater plan that must be provided to the commission by the owner/developer. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-213. Plan review. The Jonesborough Planning Commission shall review the stormwater plans as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-214. Grading permit and bond. Following approval of the stormwater plan by the planning commission, a grading permit shall be obtained from the building inspector. No grading permit shall be issued until a contractor performance bond or irrevocable line of credit is posted in the amount determined to be reasonable by the planning commission. A project cost summary must accompany the application so that it can be used to help determine the bond amount. The bond may not be higher than an amount equal to the estimated cost of the improvements, and said bond shall only be released by the building inspector following completion of construction and acceptance of the grading, vegetation, drainage, stormwater management, and erosion and sediment control measures. The bond shall be made out to the Town of Jonesborough and if issued in conjunction with a subdivision plan, shall include the cost of paving, landscaping, and utilities including streetlights if decorative

lights are submitted and approved. If after eight (8) months from the start of construction it appears that the drainage and sediment plan activities approved by the Jonesborough Planning Commission will not be implemented within a twelve (12) month period, the Jonesborough Planning Commission, at its discretion after a notice of non-compliance has been properly issued as outlined in § 11-228 of this chapter and the developer has failed to comply, may cash said contractor's performance bond or utilize the irrevocable line of credit to complete all of the improvements approved or any portion of the stormwater plan activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters. Upon the posting of the bond, the developer must sign and have notarized an approved certification granting permission for any stormwater plan activities, and any landscaping, paving and utility improvements also approved, to be made on the property in case of default. The planning commission may waive the requirement for a contractor's performance bond or line of credit for work on an acre or more in which the land disturbing activities are very minimal and are similar to single lot residential development. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-215. Building inspector/public works director may require additional protective measures. The building inspector and the public works director have the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the chapter and in the approval issued by the commission. Additional protective measures required by the public works director and/or the building inspector that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 11-231 of this chapter. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-216. Certification of design professional. The registered design professional responsible for developing the stormwater plan may be required to provide written certification to the extent possible that the stormwater management facility approved by the planning commission have been implemented satisfactorily and are in compliance with the approved plan. The building inspector or designee will ultimately have final approval authority through the issuance of a certificate of occupancy as designated in § 11-229. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-217. Stormwater management facilities and drainage structures maintained. All on-site stormwater management and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include: improper storage resulting in uncontrolled run-off and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. When problems occur during any phase of construction and development, it is the responsibility of the developer to make the necessary corrections. Corrective actions will be monitored and inspected by the enforcement officer. The board of mayor and aldermen may accept ownership of stormwater management facilities in behalf of the town under the terms set forth in § 11-219 of this chapter, however, unless the town accepts ownership the developer, or a legal entity acceptable to the planning commission, shall have on-going responsibility to see that the stormwater management facility is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the stormwater management facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-218. Improperly maintained stormwater management facilities and drainage structures a violation. The building inspector and/or the public works director shall periodically monitor and inspect the care, maintenance and operation of stormwater management facilities and drainage structures during and after construction and development. Facilities found to be a nuisance, as defined in § 11-217, are in violation of the chapter and are subject to fines of up to five thousand dollars ($5,000.00) per day for each day of violation[1] with each additional day considered a separate violation. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-219. Town may take ownership of stormwater management facilities and drainage structures. The Jonesborough Planning Commission shall have the authority to recommend to the board of mayor and aldermen that the town take ownership of stormwater management facilities and drainage structures; provided that the commission feels the public interest is best served by the town providing on-going responsibility for maintenance and up-keep. The board of

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[1]State law reference
Tennessee Code Annotated, § 68-221-1101.

mayor and aldermen will consider the recommendations of the planning commission on a case-by-case basis. In such cases, approval of the transfer of ownership shall only occur after the board of mayor and aldermen has received an inspection report from the enforcement officers, with the possible technical assistance of the Washington County Extension Agent and/or soil conservationist or others, that certifies to the extent possible said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. The designing engineer shall also certify that the stormwater management/drainage facility meets the standards outlined in best management practices. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the stormwater management or drainage structure is located and/or any necessary easements allowing the Town of Jonesborough to get access to the facilities for routine maintenance and care. The Jonesborough Planning Commission shall declare its intent to recommend to the board of mayor and aldermen that the town accepts responsibility for stormwater management facilities and drainage structures when approving the stormwater plan, and when the plan is approved, the developer shall be responsible for maintenance and upkeep until any board action is finalized. The board of mayor and aldermen will make a final determination whether to accept the stormwater management/drainage facility within one (1) year from the date the stormwater management facility or drainage structure has been completed. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-220. Technical assistance. The town staff, as determined by the town administrator, are available for consultation and advice concerning stormwater management and erosion and sediment problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Jonesborough Planning Commission. (as added by Ord. #2001-13, Sept. 2001 and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-221. Building inspector and/or public works director responsible for providing safeguards in projects less than one acre or utilizing less than three lots. Projects undertaken within the town limits of Jonesborough that are not subject to review and approval of the Jonesborough Planning Commission shall fall under the responsibility of the enforcement officers to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface water are carried out as needed. The enforcement officers shall require reasonable drainage and erosion and sediment control measures as part of the grading permit process outlined in § 11-222. Under no

conditions shall the developer/contractor of a property allow silt or sediment to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts, and slopes in areas outside the building site shall be properly covered within the same schedule as directed in § 11-208(14) of this chapter. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-222. Grading permit also required for any project on less than one acre involving grading, filling, or excavating. A grading permit is also required for any development or construction activity on property one (1) acre or less except for: the normal functioning and operation of private agriculture and forest lands; any state or federal agency not under the regulatory authority of the Town of Jonesborough for stormwater management, sediment and erosion control; and minor land disturbing activities such as home gardens, individual home landscaping, repairs and maintenance. However, said development and construction activities do not require a formal stormwater plan unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sediment control measures necessary shall be implemented, shall conform to any and all best management practices, and shall meet the objectives established in this chapter. Developers must also present to the building inspector a description of the measures that will be taken to address the requirements established in §§ 11-207(14) and (15) of this chapter - avoiding mud, sediment, rock and debris on public ways and streets. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess run-off and erosion must be in place prior to the commencement of grading and/or excavation. (as added by Ord. #2001-13, Sept. 2001, amended by Ord. #2001-17, Dec. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-223. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the town limits of the Town of Jonesborough that have been developed or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

(1) Denuded areas still existing as of the second and final reading of this chapter must be vegetated or covered under the standards and guidelines specified in the best management practices adopted by the board of mayor and aldermen, and on a schedule acceptable to the enforcement officers.

(2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.

(4) Junk, rubbish, etc. shall be cleared of drainage ways to prevent possible contaminate and pollution.

(5) Stormwater run-off in commercial areas, office or medical facilities, shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but not be limited to, the following:

(a) Oil skimmer/grit collector structure or other water quality device. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.

(b) Stormwater management facilities.

(c) Planting and/or sowing of vegetation and other nonstructural measures.

(d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-224. Improvements needed at existing locations/developments determined by the building inspector and/or director of public works. Improvements needed to provide drainage and sediment control in existing and completed developments shall be determined by either the building inspector, director of streets, or any other designated enforcement officer. The enforcement officers shall evaluate existing developments, parking areas, site work, and drainage ways to determine if additional measures to protect health and safety and water quality are needed. Assistance in undertaking the evaluations and making recommendations may be provided by the soil conservationist and/or the county extension agent. Recommendations shall be:

(1) Provided in writing to the property/business owner.

(2) Detailed as to specific actions required and why these actions are necessary.

(3) Made with a reasonable period of time for implementation. (as added by Ord. #2001-13, Sept. 2001, replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***, and amended by Ord. #2018-05, May 2018 ***Ch13_03-08-21***)

11-225. Improvements required in existing developments normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. Unless, determined otherwise by the board of mayor and aldermen, drainage and sediment control measures implemented shall be properly maintained by the property or business owner. The board of mayor and aldermen, however, at its discretion in circumstances in which board members

feel the town's participation is essential to protecting the health and safety of residents and the water quality of Jonesborough's drainage ways, may approve cost-sharing or total financial responsibility for needed drainage and sediment control measures. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-226. Town may take responsibility for existing stormwater management facilities and drainage structures. The Jonesborough Planning Commission may recommend that the board of mayor and aldermen take responsibility for existing stormwater management facilities and drainage structures if the commission determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. The board of mayor and aldermen will consider these recommendations on a case-by-case basis. Facilities considered shall be accepted as outlined in § 11-219 of this chapter. The Jonesborough Planning Commission may also recommend to the board of mayor and aldermen that the town participate in making certain improvements to existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-227. Improvements required with existing developments subject to appeal. Improvements required by the enforcement officers as outlined in §§ 11-224 and 11-225 of this chapter are subject to appeal by the property/business owners to the Jonesborough Planning Commission as specified in § 11-231. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-228. Monitoring, reports, and inspections. The public works director and/or the building inspector, with the possible assistance of others, shall make periodic inspections, during construction and development, of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan and Jonesborough's Best Management Practices. For construction sites draining to siltation impaired stream or exceptional waters of the state, the town shall perform monthly inspections. Inspections will evaluate whether the measures required in the stormwater plan and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.

As a minimum, the owner/operator of any construction project which requires a stormwater plan is required to perform twice weekly inspections of their erosion and sediment control devices and to perform required maintenance in a timely manner. If the construction project requires a construction stormwater permit through the State of Tennessee, the owner/operator shall perform inspections, site assessments, maintenance of devices, and documentation in accordance with the State of Tennessee's current construction general permit.

For drainage areas of ten (10) acres or more to a single outfall (five (5) acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the plans shall be performed within one (1) month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable.

If the public works director or the building inspector determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

(1) A notice from the enforcement officer shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permittee supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in non-compliance.

(2) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The enforcement officer shall require a reasonable period of time for the permittee to implement measures bringing the project into compliance, however, if it is determined by the enforcement officer that health and safety factors or the damage resulting from being non-compliant is too severe, immediate action may be required.

(3) If the permit holder fails to comply within the time specified, the permittee may be subject to the revocation of the permit. In addition, the permittee shall be deemed to be in violation of this chapter and upon conviction shall be subject to the penalties provided in this chapter.

(4) In conjunction with the issuance of a notice of non-compliance, or subsequent to the permittee not completing the corrective measures directed in the time period required, the building inspector, or his designee, may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of non-compliance, or may be delivered separately in the same manner as directed in § 11-228(1). (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-229. Certificate of occupancy not issued until approvals. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the stormwater plan including stormwater management facilities have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping of public ways, and utilities, including street lighting if decorative lights are used, are approved and accepted. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-230. Plan construction acceptance and bond release. Stormwater plan activities must be inspected and accepted by the enforcement officer. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of electric, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. An approval and acceptance form shall be completed by all monitoring and regulatory authorities before the building inspector releases the associated performance bond. The building inspector will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-231. Appeal of administrative action. Actions taken by the enforcement officer as authorized in §§ 11-215, 11-221, 11-226, 11-228, 11-229, and 11-230 are subject to review by the Jonesborough Planning Commission; provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the building inspector and enforcement officer with existing properties or developments are also subject to appeal to the Jonesborough Planning Commission; provided that appeals are made in writing, within thirty (30) days of receiving formal notification, to the commission chairman citing the specific reason(s) the activity or activities required present a hardship and cannot be implemented. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-232. Town clean-up resulting from violations at owner/developer's expense. Town staff is authorized at any time during construction and development to take remedial actions to prevent, clean-up, repair or otherwise

correct situations in which water, sediment rock, vegetation, etc. ends up on public streets and/or rights-of-way resulting from violations of this chapter where necessary drainage erosion and sediment control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars ($100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any drainage and sediment control facilities. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this chapter. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-233. Illicit discharge and illegal dumping. (1) The owner/operator of the site or project must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

(a) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(b) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

(c) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(2) The following discharges are prohibited from construction sites:

(a) Wastewater from washout of concrete, unless managed by an appropriate control.

(b) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials

(c) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

(d) Soaps or solvents used in vehicle and equipment washing. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-234. Penalties; enforcement. Any developer or person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized enforcement officer or the Jonesborough Planning Commission, shall be guilty of a violation of this municipal ordinance, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person shall be subject to fines of up to five thousand dollars ($5,000.00) per day for each day of violation[1]. Unless otherwise specified within any section of this chapter, the building inspector and the public works director are the designated enforcement officers of this chapter. Citations for violations may be issued by any enforcement officer, the public safety director or any Jonesborough Police Officer. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

11-235. Severability. If any provision of this chapter is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions. (as added by Ord. #2008-13, Oct. 2008, and replaced by Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 ***Ch12_04-09-18***)

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[1]State law reference
Tennessee Code Annotated, § 68-221-1101.

CHAPTER 3

FLOODPLAIN MANAGEMENT

SECTION
11-301. Town's commitment.
11-302. Recorder's duties.
11-303. Recorder to supply certain information.

11-301. Town's commitment. The town shall enact as necessary and maintain in force in those areas having flood, mudslide (i.e. mudflow), or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in section 1910 of the National Flood Insurance Program regulations. (Ord. of Aug. 8, 1978)

11-302. Recorder's duties. The town recorder shall have the responsibility, authority, and means to:

(1) Assist the administrator, at his request, in his delineation of the limits of the area having special flood, mudslide (i.e. mudflow), or flood-related erosion hazards.

(2) Provide such information as the administrator may request concerning present uses and occupancy of the floodplain, mudslide (i.e. mudflow), or flood-related erosion areas.

(3) Cooperate with federal, state, and local agencies and private firms which undertake to study, survey, map, and identify floodplain, mudslide (i.e. mudflow), or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain, mudslide (i.e. mudflow), and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

(4) Submit on the anniversary date of the community's initial eligibility an annual report to the administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures.

(5) Upon occurrence, notify the administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has the authority to adopt and enforce floodplain management regulations for a particular area. In order that all flood hazard boundary maps and flood insurance rate maps accurately represent the community's boundaries, he shall include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority. (Ord. of Aug. 8, 1978)

11-303. Recorder to supply certain information. The town recorder shall maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a flood hazard boundary map or flood insurance rate map, any certificate of flood-proofing and information on the elevation (in relation to mean sea level) of the level of the lowest habitable floor (including basement if habitable) of all new or substantially improved structures, and include whether or not such structures contain a basement, and, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed. (Ord. of Aug. 8, 1978)

CHAPTER 4

FLOODPLAIN ZONING ORDINANCE

SECTION

11-401. Statutory authorization, findings of fact, purpose and objectives.
11-402. Definitions.
11-403. General provisions.
11-404. Administration.
11-405. Provisions for flood hazard reduction.
11-406. Variance procedures.
11-407. Legal status provisions.

11-401. Statutory authorization, findings or fact, purpose and objectives.

(1) Statutory authorization. The Legislature of the State of Tennessee has, in Tennessee Code Annotated, §§ 13-7-201 to 13-7-210, 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 Jonesborough, Tennessee Mayor and Board of Aldermen, does ordain as follows:

(2) Findings of fact.

(a) The Jonesborough Mayor and its legislative body 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 CFR ch. 1 (10-1-04 Edition).

(b) Areas of Jonesborough 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) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, 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 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 blight in flood areas;

(g) To ensure that potential home buyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National Flood Insurance Program. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-402. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure 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' to 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" means 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" means 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" means the flood having a one percent (1%) chance of being equalled 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 landmasses. 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; and/or

(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" means 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 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 cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(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 preliminary 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 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 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 resewed 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" means and 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" means the Tennessee Department of Economic and Community Development's Local Planning Assistance Of Fire 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 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 pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(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" means 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" means 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 of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-403. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of Jonesborough, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Jonesborough, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), community panel numbers 47179C-0145, 47179C-0154, 47179C-0161, 47179C-0162, and 47179C-0163, dated September 29, 2006 along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Jonesborough of Washington County, 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 Jonesborough of Washington County, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-404. Administration. (1) Designation of ordinance administrator. The town administrator or his/her designee(s) 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 § 11-404(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, Local Planning Assistance Office, 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 § 11-404(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 flood-proofed, in accordance with § 11-404(2)

(g) When flood-proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 11-404(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 a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the 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 § 11-402 of this chapter). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 11-404(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. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006, and amended by Ord. #2014-05, April 2014)

11-405. 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 provision 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 § 11-405(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 § 11-402 of this chapter). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 11-404(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 § 11-402 of this chapter). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 11-404(2).

Buildings located in all A Zones may be flood-proofed, 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 § 11-404(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 § 11-405(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 (1) foot 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 (3) feet 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 § 11-405(2)(d)(iv) 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) consecutive days;

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; and

(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 § 11-403(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 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 § 11-405.

(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 § 11-403(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 flood-proofed to elevations established in accordance with § 11-405(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 11-403, 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 § 11-403, 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 § 11-405 only if data is not available from these sources, then the following provisions (subsections (5)(b) and (5)(c) below) 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 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 § 11-405(2)(c), elevated buildings.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 11-403(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' to 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 § 11-405(2), and elevated buildings.

(b) All new construction and substantial improvements of non-residential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed 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 flood-proofed 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 § 11-404(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) <u>Standards for areas protected by flood protection system (A-99 Zones)</u>. Located within the areas of special flood hazard established in § 11-403 are areas of the one hundred (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 (A-99 Zones) all provisions of §§ 11-404 and 11-405(1) shall apply.

(8) <u>Standards for unmapped streams</u>. Located within Jonesborough, 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 flood-proofed to elevations established in accordance with § 11-404. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-406. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard within Jonesborough, Tennessee.

(1) Board of zoning appeals. (a) The Jonesborough Board of Zoning Appeals 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 zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(i) The danger that materials may be swept onto other property to the injury of others;

(ii) The danger to life and property due to flooding or erosion;

(iii) The susceptibility of the proposed facility and its contents to flood damage;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(ix) 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

(x) 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. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-407. 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 Jonesborough, 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. This chapter shall become effective immediately after its passage, in accordance with the charter of Jonesborough, Tennessee, and the public welfare demanding it. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

CHAPTER 5

GENERAL PROVISIONS RELATING TO ZONING

SECTION

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11-501. Short title. This chapter shall be known as the "zoning ordinance of the Town of Jonesborough, Tennessee," and the map herein referred to, which is identified by the title "zoning map of Jonesborough, Tennessee,"[1] and all explanatory matter thereon are hereby adopted and made a part of this chapter. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-502. Purpose. The purpose of promoting the public health, safety, morals, convenience, order, prosperity, or general welfare of Jonesborough, and to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditure, conserving the value of building and encouraging the most appropriate use of lands, buildings, and other structures throughout the municipality, all in accordance with a comprehensive plan, the Board of Mayor and Aldermen of Jonesborough, Tennessee, does hereby ordain and enact into law the following sections. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

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[1]This zoning map has been amended by ordinances dated as follows: April 30, 1971; Feb. 27, 1973; Dec. 10, 1974; Jan. 14, 1975; Jan. 31, 1975; Feb. 8, 1977; July 10, 1977; March 27, 1979; Oct. 9, 1979; two ords. dated Feb. 12, 1980; March 11, 1980; April 8, 1980; Dec. 9, 1980; Oct. 19, 1982; May 31, 1983; Jan. 10, 1984; Jan. 13, 1986; Feb. 27, 1986; Sept 8, 1986; Jan. 12, 1987; June 5, 1987; Jan. 17, 1989; Dec. 11, 1989; Nov. 12, 1990; Ords. #92-01 (Jan. 13, 1992); 92-06 and 92-07 (April 29, 1992); 94-04 (Jan. 1994); 94-09 (Aug. 1994); 95-02 (March 1995); 95-03 (May 1995); 95-05 (Aug. 1995); 95-10, 95-11, 95-12, and 95-13 (Nov. 1995); 95-14 and 95-15 (Dec. 1995); 96-01 (March 1996); 96-02 (April 1996); 96-03 (May 1996); 96-11 (Sept. 1996); 96-18 (Nov. 1996); 96-21 (Dec. 1996); 97-03 (March 1997); 97-15 (July 1997); 97-17 (Oct. 1997); 97-24 (Nov. 1997); 99-01 (Jan. 1999); 99-04 (May 1999); 99-07 (June 1999); 99-09, 99-10, and 99-11 (Aug. 1999); 99-13 (Sept. 1999); 2000-02 (Jan. 2000); 2000-05 (Feb. 2000); 2000-10 (Aug. 2000); 2000-11 (Sept. 2000); 2000-19 (Dec. 2000); 2001-01 and 2001-02 (Jan. 2001); 2001-11 (Sept. 2001); 2002-01 (Jan. 2002); 2002-06 (March 2002); 2002-09 (May 2002); 2002-12 and 2002-13 (June 2002); 2003-02 (Feb. 2003); 2003-15, 2003-16, and 2003-17 (Sept. 2003); 2004-01 (Jan. 2004); 2005-07 (March 2005); 2005-10 (June 2005); 2005-17 (Nov. 2005); 2005-18 (Nov. 2005); 2006-8 (Oct. 2006); 2006-11 (Nov. 2006); 2007-01 (March 2007); 2008-01 (Jan. 2008); 2008-11 (Oct. 2008); 2008-12 (Oct. 2008); 2008-16 (Dec. 2008); 2008-17 (Dec. 2008); 2009-01 (March 2009); 2009-03 (April 2009); 2009-04 (April 2009); 2009-11 (Sept. 2009); 2009-12 (Nov. 2009); 2010-06 (June 2010), 2010-10 (Aug. 2010); 2010-13 (Dec. 2010); 2011-07 (March 2011); 2011-08 (April 2011); 2011-18 (Nov. 2011); 2012-05 (April 2012); 2012-08 (July 2012); 2012-11 (Sept. 2012); 2013-01 (Feb. 2013); 2013-05 (June 2013); 2013-08 (Oct. 2013); and 2014-03 (March 2014).

These ordinances are of record in the recorder's office.

11-503. Definitions. Except as specifically defined herein, all words used in this chapter have their customary dictionary definition. For the purpose of this chapter, certain words or terms used herein shall be defined as follows: words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural include the singular. The word "person" includes a firm, copartnership, company, organization, trust, association, corporation, as well as individual. The word "lot" includes the word "plot, or parcel." The word "building" includes the word "structure."

The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended," arranged or designed to be used or occupied.

(1) "Access." The right to cross between public and private property allowing pedestrian and vehicles to enter and leave property.

(2) "Alley." A public right-of-way which affords only a secondary means of access to property that has been accepted or opened by Jonesborough.

(3) "Accessory uses, structures and outdoor storage." Customary accessory uses, structures, and outdoor storage incidental and subordinate to the principal land use or building which are located on the same lot.

(4) "Automobile, sales, parts, service." Any establishment involved with the sale or service of any vehicular unit, including, but not limited to, trucks, motorcycles, cars, vans, recreational vehicles, etc. or their parts.

(5) "Buffer strip." Plant material or other suitable material that will provide an obscuring screen not less than six feet (6') in height when planted, or other material as may be approved by the planning commission. Buffer strips shall be a minimum of ten feet (10') in width and shall be landscaped with trees, shrubs, grass, and in a manner as specified by the planning commission.

(6) "Building." A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(a) Principal building: A building in which is conducted the main or principal use of a lot on which said building is located.

(b) Accessory building or use: A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

(c) Height of building: The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points on other types of roofs.

(7) "Business sign." A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign for the property on which it is displayed shall be deemed a business sign.

(8) "Club, private." An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain; providing that any vending stands, merchandising or commercial activities are conducted only as required generally for the membership of such club.

(9) "Condominium." A multi-unit structure offering individual ownership of said units.

(10) "Cottage inn." A building containing up to ten (10) living units which are generally considered for short term overnight accommodations for tourists and other visitors with each unit containing a bath facility and they may also contain cooking facilities.

(11) "Day nurseries, private." Any place, home or institution which receives six (6) or more young children, conducted for cultivating the normal aptitude for exercise, play, observation, imitation and construction.

(12) "Dish antenna." Antennas designed to receive television broadcasts relayed by microwave signals from earth orbiting communications satellites. These antennas shall be considered accessory use.

(13) "Dwelling unit." One (1) or more rooms in a building designed for occupancy by one (1) family and having not more than one (1) principal cooking facility.

(14) "Family." An individual or two (2) or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as one (1) housekeeping unit using one (1) kitchen, or not more than three (3) unrelated persons living together as one (1) housekeeping unit using one (1) kitchen.

(14A) "Food stores selling wine." A business that derives at least twenty percent (20%) of its sales from the retail sale of food and food ingredients, has floor space of at least one thousand two hundred (1,200) square feet, that food sales be those taxed at the lower five percent (5%) state rate rather than the higher tax for prepared foods, and that has been licensed by the Tennessee Alcoholic Beverage Commission to sell wine retail.

(15) "Garage sale." A garage sale shall include sales held by individuals for the purpose of disposing of personal items no longer needed or wanted, and shall include any such sale whether conducted from within a garage, carport, porch, or from an open yard. Five (5) or more garage sales in a calendar year shall be considered a flea market and/or retail business.

(16) "Lot." A parcel or tract of land.

(a) Lot area: The total horizontal area within the lot lines of a lot exclusive of streets, and easements of access to other property.

(b) Lot corner: A lot abutting on two (2) or more streets other than an alley, at their intersection.

(c) Lot line: The property line bounding a lot.

(d) Lot line, front: The lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

(e) Lot line, rear: The lot line which is opposite and most distant from the front lot line. In the case of an irregular triangular, or other shaped lot, a line ten feet (10') in length within the lot parallel to and at a maximum distance from the front lot line.

(f) Lot line, side: Any lot line not a front or rear lot line.

(g) Lot width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

(h) Lot of record: The boundaries of a lot filed as a legal record.

(16A) "Grocery stores." A business with fifty percent (50%) of its sales being food products and food ingredients and not selling wine or alcoholic beverages above five percent (5%) alcohol content.

(17) "Medical clinic." Medical offices, walk-in clinics, and treatment centers providing medical services for out-patients only; however, methadone treatment clinics or facilities and substance abuse treatment facilities are not medical clinics.

(18) "Mobile home." A trailer house designed for long term occupancy and containing a flush toilet, a tub or shower bath, and kitchen facilities with a water supply, electrical supply, and sewage disposal ready to be connected to outside systems.

(19) "Mobile home park." Any plot of ground upon which two (2) or more mobile homes are located or are intended to be located, but does not include sites where unoccupied mobile homes are on display for sale. The minimum mobile home park size shall be two (2) acres.

(20) "Modular home." A home with all the characteristics, appearances, and design of a permanent home such as no chassis, a permanent foundation, and meet all other requirements of the Southern Building Code will be considered as other residential structures and not mobile homes.

(21) "Nonconforming use or structure." A lawful existing structure or use at the time this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

(22) "Nursing home." One licensed by the State of Tennessee.

(23) "Outdoor advertising." An attached, freestanding or structural poster panel or painted or lighted sign for the purpose of conveying some information, knowledge or idea to the public.

(24) "Owner." An owner of property or the authorized agent of an owner.

(25) "Person." Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

(26) "Planned unit development." A planned residential, commercial or industrial development, professionally designed as a unit, and approved by the Jonesborough Regional Planning Commission, and located in those areas zoned for its use.

(27) "Recreational vehicle." A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, the basic entities are: trailer, camping trailer, truck camper, and motor home.

(28) "Recreation vehicle park." Any plot of land upon which two (2) or more travel trailers are located and used as temporary living or sleeping quarters. The occupants of such parks may not remain in the same trailer park more than thirty (30) days.

(29) "Rooming or boarding house." A building containing a single dwelling unit and not more than three (3) guest rooms where lodging is provided with or without meals for compensation.

(30) "Shopping center." A group of commercial establishments, divided, owned or managed as a unit, with off-street parking provided on the property; however, this shall not apply to a group of commercial establishments containing no more than four (4) separate commercial establishments in one (1) structure containing a total of not more than seven thousand five hundred (7,500) square feet of floor area.

(31) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof.

(32) "Street." A public right-of-way which provides primary access to property that has been accepted or opened by Jonesborough.

(a) Collector street: A street providing for traffic movement within the town as shown on the zoning map of the Town of Jonesborough.

(b) Arterial street: A street that provides for traffic movement between areas and across portions of the town and secondarily for direct access to abutting land, as shown on the zoning map of the Town of Jonesborough.

(c) Centerline of the street: That line surveyed and monumented by the governing body shall be the centerline of the street; or if such centerline has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.

(33) "Structure." (a) Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.

(b) "Structural alteration." Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

(34) "Townscape." The townscape shall include town or other government property including buildings, open spaces, signs, traffic control devices, and public ways and easements.

(35) "Use." The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

(36) "Wrecking or storage yards." A premises used for the storage or sale of five (5) or store inoperative used automobile or truck parts, or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof.

(37) "Yard." An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this chapter.

(a) "Yard, front." A yard between side lot lines and measured horizontally at right angles to the front lot line from the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley shall be considered a front yard.

(b) "Yard, rear." A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building. (Ord. of Jan. 8, 1970, as amended by Ord. of Jan. 13, 1986, replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999, and amended by Ord. #2010-05, April 2010, and Ord. #2016-03, Feb. 2016 ***Ch12_04-09-18***)

11-504. Establishment of districts. (1) For the purpose of this chapter, the Town of Jonesborough is hereby divided into classes of districts.

(a) Residence - R-1 District - low density residential.
(b) Residence - R-1A District - low density residential.
(c) Residence - R-1B District - low density residential.
(d) Residence - R-2 District - medium density residential.
(e) Residence - R-3 District - high density residential.
(f) Residence - R-4 District - transitional residential.
(g) Residential - PRD District - planned residential development.
(h) Historic - H-1 District - historic district.
(i) Historic - H-2 District - historic overlay district.
(j) Business - B-1 District - Neighborhood business.
(k) Business - B-2 District - central business.
(l) Business - B-3 District - arterial business
(m) Business - B-4 District - intermediate business.
(n) Business - B-5 District - heritage business.
(o) Business - B-6 District - urban commercial corridor.
(p) Industrial - M-1 District - manufacturing and warehouse.
(q) Industrial - M-2 District - industrial.
(r) RLS (Retail Liquor Store Overlay Zone).
(s) DC (Distilling Company) Overlay Zone.
(t) TF-1 - (Treatment Facility) Overlay Zone.

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of Jonesborough Tennessee,"[1] which accompanies this chapter and which is on file in the office of the town recorder. Unless otherwise specifically indicated on the map, the boundaries of districts are lot lines or centerlines of streets or alleys or such lines extended, the corporate limits lines of a line midway between the main track of a railroad or the centerlines of streams or other water bodies.

(2) That adult-oriented establishments and adult-oriented entertainment as defined in Tennessee Code Annotated, §§ 7-51-1001, et seq., are prohibited within the corporate limits of the Town of Jonesborough. (Ord. of Jan. 8, 1970, as amended by Ord. of Oct. 8, 1974, Ord. of Jan 13, 1986, replaced by Ord. #94-10, Sept. 1994, amended by Ord. #96-09, Oct. 1996,

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[1]This map has been changed by rezoning ordinances listed in a footnote to § 11-501.

replaced by Ord. #97-05, May 1997, Ord. #99-03, May 1999, and Ord. #2001-16, Dec. 2001, amended by Ord. #2002-08, May 2002, and Ord. #2003-04, Feb. 2003, replaced by Ord. #2003-05, Feb. 2003, amended by Ord. #2010-11, Nov. 2010, and Ord. #2010-12, Dec. 2010, replaced by Ord. #2018-05, May 2018 ***Ch13_03-08-21***, and amended by Ord. #2019-07, July 2019 ***Ch13_03-08-21***)

11-505. Application of regulations. Except as hereinafter provided:

(1) Use. No building, structure or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

(2) Street frontage. No building permit shall be issued for or no dwelling shall be erected on a lot which does not abut at least one (1) street for at least forty feet (40') except their condominiums may be excluded from this provision if they are reviewed under the PUD regulations.

(3) Corner lots. The minimum width of a side yard along an intersecting street shall be fifty percent (50%) greater than the minimum side yard requirements of the district in which the lot is located.

(4) One (1) principal building on a lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot.

(5) Reduction of lot size. No lot shall be reduced in area so that yard, lot areas per family, lot width, building area or other provisions of this chapter shall not be maintained.

(6) Yard and other spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required under this chapter for another building.

(7) Height and density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

(8) Annexations. All territory which may hereafter be annexed to the Town of Jonesborough, Tennessee shall be considered to be in the R-1 (Residential) District until otherwise classified.

(9) Conformity to subdivision regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Jonesborough Regional Planning Commission and such approval entered in writing on the plat by the secretary of the commission. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-506. Continuance of nonconforming uses. Any lawful use of any building or land existing at the time of the enactment of this chapter or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this chapter with the following limitations:

(1) Any industrial, commercial, or business establishment containing a nonconforming use shall be allowed to continue in operation provided no change in the use of the land is undertaken. Said establishments shall be permitted to expand activities and facilities or reconstruct facilities necessary for said activities; provided there is a reasonable amount of space for such expansion on property owned by said establishments to avoid nuisances to adjoining landowners. However, expansion of said establishments through the acquisition of additional land is prohibited.

(2) No building or land containing a nonconforming use except for industrial, commercial or business shall hereafter be extended unless such conditions shall conform with the provisions of this chapter for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of this chapter. These buildings, which have been damaged by fire or other causes, may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than seventy-five percent (75%) of its appraised value for tax proposes, in which case any repair or reconstruction shall be in conformity with the provisions of this chapter.

(3) When a nonconforming use of any building or land has ceased it shall not be reestablished or changed to any use not in conformity with the provisions of this chapter. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, amended by Ord. #97-06, June 1997, and replaced by Ord. #99-03, May 1999)

11-507. Off-street automobile parking. Off-street automobile parking space shall be provided on every lot, except in the B-2 (Central Business) District, on which any of the following uses are hereafter established. The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall have at least one hundred ninety (190) square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street. The planning commission, at its discretion, may reduce the number of parking spaces required for an individual business when the reduction still meets the need of the business, the number of spaces remaining appears to adequately serve the business use intended, and the reduction in spaces helps reduce stormwater run-off and potentially increases opportunities for additional landscaping and green space areas.

(1) Automobile repair garages: One space for each regular employee plus one (1) space for each two hundred fifty (250) square feet of floor space used for repair work.

(2) Churches: One (1) space for each four (4) seats.

(3) Funeral parlors: One (1) space for each four (4) seats in the chapel.

(4) Gasoline filling stations: Four (4) spaces for each by or similar facility plus one (1) space for each attendant.

(5) Nursing homes: One (1) space for each four (4) beds plus one (1) space for each four (4) staff or visiting doctors plus one (1) space for each two (2) employees, including nurses, computed on the basis of the greatest number of persons on duty at one (1) period during the day or night.

(6) Industry: One (1) space for each three (3) employees computed on the basis of the greatest number of persons employed at any period during day or night.

(7) Lodges and clubs: One (1) space for each two hundred (200) square feet of floor space or one (1) space for each four (4) members whichever is greater.

(8) Offices:

(a) Medical - one (1) space per two hundred (200) square feet of floor space.

(b) Dental - one (1) space per three hundred (300) square feet of floor space.

(c) Other professional - one (1) space per four hundred (400) square feet of floor space.

(d) General offices - one (1) space per five hundred (500) square feet of floor space.

(9) Places of public assembly: One (1) space for each six (6) seats in the principal assembly room.

(10) Residential: Two (2) spaces for each dwelling unit.

(11) Restaurants and night clubs: One (1) space for each one hundred (100) square feet of floor area devoted to patron use, plus one (1) space for each four (4) employees.

(12) Retail business: One (1) space for each two hundred (200) square feet of gross floor space.

(13) Rooming and boarding houses: One (1) space for each bedroom.

(14) Schools: One (1) space for each teacher. One (1) space for each four (4) pupils, except in junior high and elementary schools one (1) space for each one hundred (100) pupils.

(15) Tourist courts and motels: One (1) space for each accommodation.

(16) Wholesale business: One (1) space for each three thousand (3,000) square feet of floor space plus one (1) space for each employee.

(17) Location on other property: If the required off-street automobile parking spaces cannot reasonably be provided on the same lot on which the principal use is conducted, such spaces may be provided on other off-street

property; provided such space lies within four hundred feet (400') of the main entrance of such principal use. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner.

(18) Extension of parking space into a residential district: Required parking space may extend up to one hundred twenty feet (120') into a residential zoning district; provided that:

(a) The parking space adjoins a commercial or industrial district;

(b) Has its only exit to or from upon the same street as the property in the commercial or industrial district from which it provides the required parking space; and

(c) Is separated from abutting properties in the residential district by a planted buffer strip. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999, and amended by Ord. #2012-02, April 2012)

11-508. Off-street loading and unloading space. On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley:

(1) Retail business: One (1) space of at least twelve by twenty-five feet (12 x 25') for each three thousand (3,000) square feet of floor area or part thereof.

(2) Wholesale and industrial: One (1) space of at least twelve by fifteen feet (12 x 15') for each ten thousand (10,000) square feet of floor area or part thereof.

(3) Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks that will be stored and loading and unloading at the terminal at any one (1) time. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-509. Vision clearance. In all districts except the B-2 Central Business District, no fence, wall, shrubbery, or other obstruction to vision between the height of three feet (3') and fifteen feet (15') shall be permitted within twenty feet (20') of the intersection of the right-of-way lines of streets or of streets and railroads. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-510. Ingress and egress. A plan for adequate and safe ingress and egress for all land uses shall be required. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-511. Designated flood enforcement area.[1] No building or structure shall be constructed, altered, or repaired, no mobile homes placed, and no land shall be filled or excavated in the designated flood enforcement area until a permit has been obtained. Zone A (100 year flood area) as shown on the flood hazard boundary map issued by the Federal Insurance Administration dated October 22, 1976, and any revisions to this map shall be the designated flood enforcement area. All permit applications must be reviewed to ensure that all the requirements of the flood hazard area ordinance and the floodplain management ordinance are met before the permit application can be approved. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-512. Planned unit development. Purpose: The purpose of the planned unit development (sometimes hereinafter referred to as PUD) is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program professionally prepared. The planned unit development is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable attractive open spaces, safe circulations, and the general well-being of the inhabitants.

(1) Location: A PUD may be located within any residential, commercial or industrial district; provided that the density and use requirements of the district in which such a PUD is to be located are adhered to; and provided that the PUD plan has been reviewed and recommended for approval by the Jonesborough Regional Planning Commission.

(2) Permitted uses in PUDs: Any use permitted in that district in which the PUD is to be located.

(3) No freestanding building shall be closer than twenty feet (20') to any other freestanding building and no closer than twenty-five feet (25') to the exterior property line.

(4) Relationship to the subdivision regulations: The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing or planned streets in the area and to the major thoroughfare plan, Jonesborough, Tennessee, together with provisions for street improvements shall generally comply with standards set forth in the subdivision regulations. However, the uniqueness of each proposal for a planned unit development may require that specifications for the width and surfacing of streets, public ways, public utility right-of-way, curbs and other standards may be subject to modification from the specifications established in the subdivision regulations.

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[1]See also chapters 3 and 4 of this title.

Upon application by the landowner and good cause shown, the planning commission may permit changes or alterations of such standards which are consistent with the spirit and intent of this section. Modifications may be incorporated only with the approval of the planning commission as a part of its review of the development and granted as a variance in the preliminary approval of the subdivision plat which is concurrent with the final approval by the planning commission of the development plan.

(5) Site improvements:

(a) All dedicated public streets shall be constructed so as to conform with the Jonesborough Subdivision Regulations.

(b) There shall be constructed sidewalks, or an equivalent paved internal pedestrian circulation system. The minimum width of such sidewalks shall be four feet (4').

(c) Storm drainage structures shall be constructed in accordance with plans and specifications approved by the planning commission.

(d) Any planned unit development to be constructed within Jonesborough shall be served by a sanitary sewer.

(e) For the prevention of noise, improvement of visual character and a generally more pleasing environment, adequate landscaping and screening shall be required by the planning commission and shown on the planned unit development plan.

(f) Each PUD shall be limited to one (1) major business sign and any number of small accessory business signs. All small accessory signs shall be a face sign attached to a building and shall not project above the building.

(6) Open space requirements:

(a) Residential: On site usable recreation and open space shall be provided. Such areas shall be set aside for open space or recreation purposes only. It is intended to serve the residents of the PUD, and should, therefore, be easily accessible to them. If the PUD is to be of individually owned units, then this space shall be maintained in common ownership, established in the appropriate legal manner.

(b) Commercial and industrial: Commercial and industrial PUDs shall meet all open space requirements established in this chapter.

(c) Said open space shall be established in the appropriate legal manner and maintained in one (1) of the following methods:

(i) By the developer or management authority of the PUD.

(ii) By homeowner's association established by deed restrictions.

(iii) By the public if dedication of such open space is approved by the planning commission.

(7) Staging:

(a) The applicant may elect to develop the site in successive stages in a manner indicated in the planned unit development plan; however, each such stage shall be substantially complete within itself.

(b) The planning commission may require that development be done in stages if public facilities are not adequate to service the entire development initially.

(8) Changes and modifications:

(a) Major changes: Major changes in the planned unit development after it has been adopted shall be considered the same as a new petition and shall be made in accordance with the procedures specified in Section 67.10.[1]

(b) Minor changes: Minor changes in the planned unit development plan may be approved by the planning commission.

(9) Application procedure for planned unit development: To obtain a special conditions permit to develop a planned unit development, the developer shall submit a preliminary planned unit development plan to the Jonesborough Regional Planning Commission for its review and approval. The preliminary PUD plan shall be drawn at a minimum scale of one inch equals one hundred feet (1" = 100') and shall:

(a) Define the location, size, accessibility, and existing zoning of the proposed site;

(b) Indicate the surrounding type of development and land use;

(c) Set forth the type of development proposed. The density of the proposed development, and the location of all structures, parking areas, and open space;

(d) Show a plan for streets, thoroughfares, public utilities, school, and other public or community uses;

(e) In addition to the above, the planning commission may require such other additional information as may be determined necessary to adequately review the proposed development;

(f) No building permits shall be issued until after approval of both the final PUD plan and a preliminary subdivision plat for any portion of the property contained within the area encompassed by the final PUD plan which is to be subdivided. The building inspector shall revoke any permit issued in reliance upon said plan as finally approved at such time as it becomes obvious that such plan is not being complied with;

(g) The final PUD plan shall conform to the preliminary PUD plan and shall include the following items, if applicable: such items, and

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[1]Reference to this section appears here as it did in Ord. #99-03 from which these provisions were taken. It is unclear exactly to what document this is a reference.

in such format, as may be required according to procedures adopted and published by the Jonesborough Regional Planning Commission;

(h) Any special conditions permit shall expire twelve (12) months from and after its issuance if the development as planned has not been adhered to or is not being adhered to; provided however, that for good cause shown said special conditions permit may be extended for additional periods not to exceed one (1) year. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-512A. Planned residential development. The regulations established in this section for a planned residential district are intended to provide optional methods of land development which encourage imaginative solutions to environmental design problems. A planned development permits design innovation, encourages a maximum choice of types of environment, and optional methods of land development, which encourage imaginative solutions to environmental design problems. The goal is a development plan in which buildings, land use, transpiration facilities, utility systems and open spaces are integrated through overall design. The planned development permits the placement of buildings on land without adherence to conventional lot approach common to traditional zoning. By planning the total parcel rather than the single lot, flexibility is provided in the building site, thereby permitting a mixture of housing and building types and uses as well as the grouping of units to create more usable open space for the preservation of significant natural features.

(1) This section hereby establishes a Planned Residential District (PRD). This district shall be shown on the zoning map of Jonesborough, Tennessee and shall be established as follows:

(a) A request for a planned residential district shall not become effective unless it is first submitted to the Jonesborough Regional Planning Commission for approval or disapproval.

(b) Following approval or disapproval by the planning commission and a public hearing as provided by law, the Jonesborough Board of Mayor and Aldermen may, by a favorable vote of a majority of the entire membership of said board, create a planned residential district as herein provided.

(c) From and after the approval of any zone for a planned development district, it shall be unlawful to commence the filling or leveling of any land or the excavation for, or the construction of any building including accessory buildings, until such time as the owner or developer of the proposed development has submitted and received approval of a comprehensive development plan by the Jonesborough Regional Planning Commission.

(2) Permitted uses. The purpose of the planned residential districts is to permit optional methods of residential development. This zone would

permit development to other than the traditional single lot development yet maintain the character of the neighborhood. The PRD classification may be utilized to promote flexibility in the design of a planned residential development while maintaining the current residential integrity of the surrounding development.

(a) The following uses are permitted in the planned residential development district: Single-family attached and detached dwellings, two (2) family dwellings, multi-family dwellings and their customary accessory structures. Mobile homes are not an allowed use in this zone.

(b) The minimum initial development site for a planned residential district shall be at least five (5) acres. Additional tracts less than five (5) acres may be added to an existing PRD zone under the following conditions:

(i) The property considered for PRD zoning is immediately adjacent to an existing PRD zone.

(ii) A site plan is developed for the smaller tract that shows how the parcel is connected to and coordinated with the plan for the exiting PRD development.

(iii) The conceptual site plan for the property requesting PRD zoning is approved by the planning commission.

(iv) The conceptual PRD site plan approved by the planning commission may not be changed without receiving additional planning commission approval.

(3) PRD standards. The following standards apply, and must be included in site plans submitted to the Jonesborough Planning Commission for approval:

(a) The minimum development site for a planned residential district shall be five (5) acres. Planned residential districts may be developed in phases, however, the initial phase must be a minimum of five (5) acres or as allowed under § 11-512A(2)(b) of the Jonesborough Zoning Ordinance. After the initial phase, the planning commission may accept phases less than five (5) acres; provided that the open/common space amenities and infrastructure improvements are in reasonable proportion to the residential construction.

(b) All planned residential districts shall be served by sanitary sewer.

(c) Public street pavement widths shall be a minimum of twenty-two feet (22') wide for two-way traffic or as required in the Jonesborough subdivision regulation, whichever is less, and must meet all development standards of the Jonesborough subdivision regulations. Private street widths shall be a minimum of twenty feet (20') wide for two-way traffic and twelve feet (12') wide for one-way traffic. Alleys shall be a minimum twelve feet (12') wide for one-way traffic and minimum sixteen feet (16') wide for two-way traffic.

(d) Sidewalks shall be required on both sides of all streets except in common open space areas, and to the extent possible shall meet all ADA requirements. Sidewalks may be constructed on one (1) side of the street when trails are also associated with the development. A pedestrian access plan must be submitted to the planning commission as part of the site plan. The planning commission, at its discretion, may waive the requirement for sidewalks if the pedestrian access plan shows adequate alternative pedestrian access to residences and facilities within the development.

(e) There shall be no more than four (4) principal buildings per acre.

(f) There will be a maximum of four (4) single-family dwelling units per acre. When multi-family units or two (2) family (duplex) units are used alone or in conjunction with single-family dwelling units, the maximum density shall be eight (8) dwelling units per acre. If the development is a mixture of unit types including single-family units, the single-family units shall be less than four (4) per acre so there are no more than four (4) residential buildings per acre.

For example, on a one (1) acre parcel of land there are two (2) single-family dwellings, four (4) multi-family dwellings within a single building, and one (1) two (2) family (duplex) building totaling eight (8) dwelling units which meets the maximum PRD density of eight (8) dwelling units per acre, and there are four (4) buildings which meets the maximum of four (4) buildings per acre requirement.

(g) There shall be a minimum of six inch (6") ductile iron water lines, or acceptable alternative to the Jonesborough Water Department, serving the interior of the development.

(h) Necessary fire hydrants shall be provided within the development.

(i) A minimum of twenty percent (20%) of the entire development tract shall be common or open space, with the common or open space being defined as the area outside of private streets, rights-of-way for public streets, parking lots or driveways (unless associated with a common space structure), buildings (unless associated with a common space structure), and any individual lots. Alleys, if used, within the perimeter green space may be counted towards common space. Common or open space must be a defined area separate from individual lots and owned by a homeowners association, the Town of Jonesborough, or if in a rental based development be a designated area accessible to all renters within the development.

(j) Specific means by which the preservation and maintenance of the common or open space or other common property is achieved shall be required as part of the development plan, and should be included in the subdivision plat notes.

(k) There shall be a twenty-five foot (25') green space buffer along the perimeter of the original tract, and no structures including houses, sheds, decks, patios, pools, etc. may be built in this perimeter buffer unless the structure(s) are owned by a homeowners association, the Town of Jonesborough, or if in a rental based development these structures must be in designated common space that is accessible to all renters. In the event the allowed common or open space structures are developed within a portion of the perimeter buffer, there still must be at least a ten foot (10') green space area remaining along the exterior property line. Where proposed single-family lots can immediately adjoin the exterior property line of the original tract, the perimeter twenty-five foot (25') green space may be included as part of the rear of the single-family lots; provided it is approved by the planning commission and a twenty-five foot (25') restricted area is created and protected by easement, deed restriction, covenant or other such method acceptable to the town attorney, that results in a green space area with the homeowner being prohibited from constructing or placing any buildings or structures in the restricted area.

(l) The twenty-five foot (25') perimeter green space buffer must meet the requirements in the landscape ordinance for a class one buffer, or an alternative landscape plan may be submitted to the tree and townscape board that provides specific plantings to address screening and landscape beautification around the perimeter of the development, as well as any interior common or open spaces. Information provided in a landscape plan submitted must include variety, caliper and height of trees planted, existing trees in good condition, pot/ball size of shrubs, grasses and perennials, height and spread at maturity of trees and shrubs, planting location, as well as any hardscape structures.

(m) Developers are encouraged to preserve existing trees and vegetation when reasonable in buffer areas and open and common space areas. Removal of existing trees within required buffers or in open and common space areas is only allowed with planning commission approval.

(n) Other than the twenty-five foot (25') setback along the exterior property line of the development, setbacks for individual lots shall be determined by the developer, and must be listed clearly on the site plan. The planning commission reserves the right to approve or deny the setbacks submitted, however, any individual lot setback approved must meet any minimum standards established in the building code adopted by the Town of Jonesborough.

(o) There shall be parking provided on the site equal to two (2) spaces per dwelling unit. Garages are considered parking spaces based on the number of cars the garage is designed for.

(p) Alleys are allowed in perimeter green space but they must be at least ten feet (10') from the exterior property lines of the original

tract. Alleys may be designated one-way. Alleys outside of the perimeter green space must be at least twelve feet (12') wide if one-way and sixteen feet (16') wide if two-way, or as allowed by the subdivision regulations.

(q) Any required plantings within the green, open space or common areas, any sidewalk, walkway or trail, or hardscape structures resulting from site plan, subdivision, and/or landscape approval, must be installed or constructed, or properly secured with a bond, letter of credit, or cash deposit, before final approval of the subdivision plat or issuance of a certificate of occupancy.

(r) Notes on the subdivision plat must explain ownership, maintenance responsibilities, and restrictions of common or open space, the perimeter green space and any vegetated buffer. (as added by Ord. #2001-16, Dec. 2001, and amended by Ord. #2012-03, April 2012, and 2012-15, Nov. 2012)

11-513. R-1 (Low Density) Residential District. It is the intent of this district to establish low density residential areas along with open areas that appear likely to develop in a similar manner. The requirements for the district are designed to protect essential residential, historic and aesthetic characteristics of the district and to promote and encourage an environment for family life; and to prohibit all business activities. In order to achieve the intent of the R-1 (Low Density) Residential Districts, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Single-family residences, except mobile homes.

(2) Two (2) family residences.

(3) Multi-family residences; provided that a site plan is submitted to the building inspector for review and approval.

(4) Customary general farming.

(5) Incidental home occupations; provided that a home occupation permit application is approved by the Jonesborough Regional Planning Commission.

(a) The planning commission shall use the following criteria in determining the appropriateness of an incidental home occupation permit request:

(i) The home occupation shall be clearly incidental to the principal residential use.

(ii) The home occupation shall be carried on by residents living full-time in the dwelling.

(iii) One (1) additional person may be employed who is not a resident in the dwelling and working in the dwelling at any given time.

(iv) The home occupation shall not utilize more than one-third (1/3) the area of the principal building or a maximum of five hundred (500) square feet. The calculation is based on livable

space, and the home occupation area includes any storage space for any related materials or products. The determination of livable space must be submitted by the property owner, and confirmed by the building inspector.

(v) The planning commission may approve an incidental home occupation that is carried out in an outbuilding located on the same lot as the primary residence/building, with the following conditions:

(A) The space utilized for the home occupation in the outbuilding is based on the calculation for eligible livable space allowed in the primary building, and the area proposed in the outbuilding is instead of space used in the primary building.

(B) Attached garages workshops, storage areas, etc. are not included in the calculation of livable space, and any proposed uses of these spaces for a customary home occupation will be considered the same as an outbuilding in subsection (5)(a)(v)(A) above.

(C) The occupation requested can be undertaken efficiently in the outbuilding, and does not create access or safety concerns.

(D) The building is suitable for the occupation and meets any code or safety requirements that might be applicable.

(vi) The submittal for approval of an incidental customary occupation must be made by the property owner living in the primary structure, or if a rental by the tenant living in the primary structure with a letter from the property owner approving the submittal of the occupation being considered.

(vii) There may be no external evidence displayed or created outside the building, including products and materials, related to the incidental home occupation other than one (1) unanimated, non-illuminated, flat freestanding or window sign of no more than two and one-fourth (2-1/4) square feet or one and one-half by one and one-half feet (1-1/2' x 1-1/2')

(viii) The hours of operation are limited to between 8:00 A.M. to 8:00 P.M.

(ix) Educational instructional activities as incidental home occupations may not involve more than ten (10) people at one (1) time. Baby-sitting or daycare like activity must involve four (4) children or less to be considered an incidental home occupation.

(x) There shall be no retail transactions on the premises, unless provided a special exception by the planning commission for items produced in the dwelling. If there are product sales, the

applicant must detail how sales will be made, and why said sales are not retail. The planning commission shall ultimately determine whether sales are considered retail.

(xi) No equipment or process used in the incidental home occupation shall create noise, vibration, glare, smoke, fumes or odors detectable beyond the property lines of the lot to any additional extent than what is normal for the residential character of the neighborhood.

(xii) The following are examples of acceptable and unacceptable incidental home occupations, and the listing is intentionally incomplete and used as examples only.

(A) Examples of acceptable occupations: Lawyer, insurance, accountant, architect, engineer, counselor, clergy, financial planners, and other similar professional services; Tupperware, Amway, Mary Kay products and other such home marketed products, provided a group at any given time is not larger than ten (10) people, barber or beauty shop with only one (1) chair, pet grooming, artist studios, small repair services for jewelry, appliances, computers, etc.

(B) Occupations not meeting incidental home occupations criteria include: Most retail sales, daycares (more than four (4) children), dance studios serving more than four (4) students, kennels, motor vehicle repair unless in separate outbuilding with only two (2) vehicles present, gun sales, florist shop, restaurants.

(b) A site plan shall be submitted to the planning commission showing ingress and egress and associated parking.

(c) Only one (1) commercial vehicle may be used for the incidental home occupation, including storage and transport of materials, and if the vehicle has exterior advertising associated with the home occupation, such vehicle must be stored in a garage or building or other mode of concealment when it is located at the dwelling.

(d) The holder of an incidental home occupation permit must continuously comply with all provisions of the permit requirements.

(e) An incidental home occupation permit is not transferrable. The permit terminates if the permit holder ceases to occupy the dwelling.

(f) An incidental home occupation permit may be revoked by the planning commission when it is determined that the conditions of the issuance have not been met.

(i) The permit holder shall be notified in writing that the conditions of the permit issuance are not being met, and the specific infraction(s) noted.

(ii) The permit holder shall be given a minimum of ten (10) calendar days from the date of the written correspondence to

bring the conditions noted into compliance or to obtain written approval from the building inspector of a plan to get in compliance within a minimum and reasonable time period.

(iii) Correspondence shall include the date the planning commission shall consider a possible revocation of the incidental home occupation permit.

(g) The board of zoning appeals shall not issue a variance from the established criteria of the issuance of an incidental home occupation permit.

(6) Public owned buildings and uses, schools offering general education, and churches provided that:

(a) The location of these uses shall first be reviewed by the Jonesborough Planning Commission and a site plan approved;

(b) The buildings are placed not less than fifty feet (50') from the side and rear property lines; and

(c) There are planted buffer strips along side and rear property lines.

(i) Parking associated with home occupation must be accommodated on the property in which the occupation is taking place. A commercial vehicle must conform to requirements outlined in § 11-513(5)(c) of this chapter and may not be parked on the public street. Any vehicle associated with an employee may not be parked on the public street, unless there are parking spaces, public or private, that do not restrict the flow of traffic through the subdivision. If the applicant intends to park his or her vehicle on the public street as a result of the home occupation business activity, the applicant must:

(A) Provide justification for such street parking.

(B) Provide an explanation as to why such parking cannot be located on the property in which the home occupation will be undertaken.

(C) Show evidence of how any on-street parking resulting from the home occupation will not present a traffic safety concern to other residents within the subdivision.

(ii) The applicant must provide documentation of subdivision restrictions, if any, that might impact the appropriateness of the home occupation in the subdivision in which the residence involved is located. The applicant must declare "yes" or "no" if there are subdivision regulations that do apply. If yes, documentation of those restrictions must be provided in the application submittal. If subdivision restrictions impacting the appropriateness of a home occupation being permitted are submitted, the planning commission shall determine if the information provided should impact the commission's

determination, and the commission may defer action until any internal issue within the subdivision on the home occupation request is resolved.

(iii) Before the planning commission takes action on an incidental home occupation permit application, the following notification requirements should be met:

(A) Adjoining properties are sent notice of the planning commission meeting date and time along with a description of the request for an incidental home occupation permit. When reasonable in a heavily populated subdivision, notification is encouraged to any additional households in close proximity to the home occupation applicant.

(B) If there is a subdivision homeowner's association, notification of the meeting date and time, and information summarizing the home occupation request and the residence involved will be sent to the mailing address of the homeowner's association in advance of the planning commission meeting in which the application will be discussed.

(C) If the subdivision has a designated person who facilitates communication within the subdivision, notification of the meeting date and time in which the home occupation application will be discussed and information summarizing the home occupation request shall be sent to the designated communications facilitator in advance of the planning commission meeting date.

(7) Accessory uses. Structures, and outdoor storage: Accessory uses, structures, and outdoor storage shall be located in rear yards not closer than ten feet (10') to any property line.

Carports can be exempted from the rear yard requirement and be approved by the building inspector under the following conditions:

(a) A schematic is submitted to the building inspector showing the carport location and distances from the front and side property lines as well as the residence, and photos, sketches, or marketing materials are provided showing the appearance and design of the carport.

(b) A site plan shall be submitted to the planning commission showing ingress and egress and specific locations for all off-street parking associated with vehicles involved with the home occupation, and also for personal vehicle parking for occupants of the residence.

(c) The building inspector approves the location, construction stability and design/appearance of the carport and its compatibility with the residence based on standards and guidelines established by the planning commission; however, the owner submitting a request to install a carport may take the request to the planning commission.

(8) Cottage inns as a special exception limited adaptive use of historic structures listed on the National Register of Historic Places or structures within the H-1 or H-2 historical districts subject to planning commission approval.

(9) Accessory building apartments are an allowed use; provided that:

(a) The setback distances of the accessory building from property lines meets the setback requirements for a primary building.

(b) There is appropriate ingress and egress to the accessory building apartment as determined by the planning commission under subsection (9)(h) below.

(c) The apartment does not eliminate the garage, workshop or other accessory use of the structure.

(d) The floor space of the apartment is no more than the remaining floor space of the accessory use.

(e) The apartment living space is on the second floor. However in existing accessory buildings the second floor residential use is not required; provided that the residential use is not more than fifty percent (50%) of the existing building.

(f) There is adequate parking for both the primary structure and accessory apartment.

(g) The apartment and its access meets all requirements set out in the International Building Code or such building code adopted by the Town of Jonesborough.

(h) A site plan be presented to the planning commission for review and approval showing the following:

(i) Relationship of accessory building to primary building on lot and all property lines.

(ii) Identification of accessory use.

(iii) Relationship of apartment to accessory use in building.

(iv) Square footage of floor space of apartment and accessory use.

(v) Pertinent information from building code showing minimum requirements that might apply, including minimum square footage requirements for rooms by use, stair widths and elevation, etc.

(vi) Parking areas for primary and accessory apartment building, as well as ingress and egress.

(vii) Method of utility service.

(viii) Names of adjoining property owners.

The site plan should be submitted ten (10) days in advance of the planning commission meeting so adjacent property owners may be notified before the meeting.

(i) Accessory apartments within the historic district must meet historic zoning commission standards and guidelines. Setback

requirements within the historical district, if established elsewhere in the code, shall apply.

(10) Portable storage containers are subject to the following provisions and restrictions:

(a) "Portable storage containers," also called PODS, conex boxes, SAMS or shipping containers, are defined as any transportable unit or container normally used for temporary storage outdoors which is typically delivered and removed by truck.

(b) Portable storage containers to be placed on non-public property in all zones require a permit.

(c) Except in a manufacturing zone, there should be no more than one (1) portable storage container per parcel without a variance from the Jonesborough Regional Planning Commission/Board of Zoning Appeals, or without advance planning commission approval as a component of development site plan approval.

(d) Placement of portable storage containers must meet setback requirements of the zone in which they are located.

(e) A portable storage container permitted for temporary use in association with construction or moving activity must meet the following requirements:

(i) The location of the portable storage container on the site is either approved or designated by the Jonesborough Building Inspector, and to the extent possible containers will be located to the rear of the primary building.

(ii) A portable storage container in temporary status is permitted to locate on the site approved no more than nine (9) months without planning commission approval to extend, and the building inspector has the authority before the nine (9) month term to issue a written notice to the owner to remove the portable storage container within ten (10) calendar days from the date of the notice if the building inspector determines the project to be essentially complete or the portable storage container is essentially empty.

(iii) Any extension beyond the initial nine (9) month period of use must be approved by the planning commission, and the planning commission has the authority to require partial or total screening of the container as a condition of the extension. The planning commission may require a rendering of the type of screening to be used, if required, as part of the extension consideration. If an extension is granted, the planning commission shall determine the specific length of the extension.

(f) Except in an R-1, R-2 or PRD Zone, portable storage containers may be considered for long-term use as an outbuilding under the following circumstances:

(i) The portable storage container meets outbuilding requirements, and the container must be screened or covered.

(ii) A schematic is submitted to the planning commission for approval showing the portable storage container location, size, relationship and distance from primary building, a rendering indicating the method of screening or covering of the container, and setback distances from property lines.

(iii) If the portable storage container location requested is on the side or in front of the primary structure on the lot, the information required in subsection (10)(f)(ii) above must be submitted to the planning commission for approval along with a written justification of why the portable storage container cannot be located on a site in the rear of the primary structure.

(iv) Any signage permanently applied to the container must be removed or covered.

(g) The building inspector has the authority to allow temporary placement of a portable storage container on a property in an emergency situation like a loss due to fire, flood, or other such catastrophic event. Such emergency temporary use shall be reviewed by the planning commission, if necessary, at its next meeting, and the temporary use term is only until a more formal request can be reviewed by the planning commission.

(h) Portable storage containers used by residents, property/business owners or contractors may not be placed on public streets or rights-of-way without the permission of the Town of Jonesborough.

(i) Portable storage containers may not be used to store illegal or hazardous materials.

(j) Portable storage containers approved in temporary status must be removed immediately or within ten (10) calendar days upon completion of the project; at the end of nine months; or as directed by the building inspector if prior to the nine (9) month temporary permit term.

(k) Portable storage containers may only be considered for temporary use within the historic zones, unless receiving a special exception from the historic zoning commission.

(l) More than one (1) portable storage unit may be allowed in a manufacturing M-1 or M-2 zone, however, a permit is required to ensure safe placement of the containers. Portable storage containers used long-term in a manufacturing zone do not require planning commission approval. (as added by Ord. #94-10, Sept. 1994, amended by Ord. #98-01 (Jan. 1998), replaced by Ord. #99-03, May 1999, and amended by Ord. #2003-21, Dec. 2003, Ord. #2009-08, June 2009, Ord. #2012-16, Dec. 2012, Ord. #2014-08, Aug. 2014, 2016-04, March 2016 ***Ch12_04-09-18***, and Ord. #2018-04, April 2018 ***Ch12_04-09-18***)

11-514. R-1A (Low Density) Residential District. Same intent and standards of the R-1 District except that smaller lot sizes are allowed for single-family residences on sanitary sewers and the side yard is reduced.

Same land uses, standards and setbacks as the R-1 District except that single-family residences on sanitary sewers have a minimum lot size of twelve thousand (12,000) square feet, and the minimum side yard is ten feet (10'). (as added by Ord. #99-03, May 1999)

11-514A. R-1B (Low Density) Residential District. Same intent and standards of the R-1 District except that bed and breakfasts, cottage inns, rooming and boarding houses are an allowed use, as well as facilities related to weddings, meetings, celebrations, and facilities that assist in the promotion and success of farmers markets producing goods for resale. The following uses are allowable:

(1) Bed and breakfasts, cottage inns, boarding and rooming houses.

(2) Facilities related to weddings, meetings, celebrations and other similar activities.

(3) Facilities used in the production of goods for resale at farmer's markets, shops, etc.; provided that the products developed are sold off-premise, or that those sold on-premise are only sold as a minor or incidental component of a bed and breakfast or other allowable use in the R-1B zone.

(4) Mobile homes are not allowed in an R-1B zone.

The zone will otherwise have the same standards and setbacks as in an R-1 zone. Uses in an R-1B zone not in R-1 must be approved by the planning commission through the submission of a site plan addressing safe ingress and egress, parking, site layout with structures, lighting, and potential impact on adjoining properties. The planning commission has the authority to require buffering or additional buffering if already required in such circumstances that additional steps are necessary to protect the general welfare of adjoining properties. Bed and breakfast and food related activities must obtain any health department or other agency approvals that may be required. (as added by Ord. #2010-11, Nov. 2010)

11-515. R-2 (Medium Density) Residential District. It is the intent of this district to provide area for single-family and multi-family dwellings; to encourage development and continued use of land for residential purposes; to prohibit land use for business use and/or industrial activities and other land uses which would interfere with the residential, historic and aesthetic characteristics of the district. In order to achieve the intent of the R-2 (Medium Density) Residential District, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-1 Residential District.

(2) Mobile home dwellings: Mobile home dwellings may be placed on a lot, except within the historic zoning district, subject to the following conditions:

(a) The mobile home has the metal plate certifying that it meets minimum standards of the Department of Housing and Urban Development. Uncertified mobile homes, recreational vehicles, and campers may not be placed on a lot for long or short term occupancy.

(b) The mobile home is anchored in accordance with state law.

(c) That the space between the bottom of the mobile home and the ground be enclosed with a permanent material.

(d) A mobile home may temporarily be placed on a lot with a site built or a modular dwelling unit if the lot could be subdivided and meet the requirements of the subdivision regulations. The lot would have to be subdivided if the mobile home was to be permanently located on the lot. Recorded deeds may be used to subdivide the property if the land is to be sold to another person or a recorded plat may be used if the original owner is going to retain ownership of the property. All plats must be approved by the planning commission.

(3) Daycare centers; provided that a site plan is submitted to the planning commission for review and approval, and a letter of approval by the Tennessee Department of Human Service is filed with the building inspector.

(4) Boarding and rooming houses.

(a) Special exceptions: Within the historic district the following non-residential uses may be permitted by a special conditions permit which shall not be issued until all conditions set forth in this section and Section 74[1] of this chapter have been met:

(b) Limited adaptive uses of historic structures, contained in a listing compiled by the Jonesborough Civic Trust and approved by the Jonesborough Planning Commission and the Historic Zoning Commission, for offices of doctors, lawyers, architects, civic or patriotic organizations, educational centers, and cottage inns.

(c) Heritage occupations in conjunction with a principal residential use; provided that the proposed occupation is listed on the heritage occupations list compiled by the Jonesborough Planning Commission and the Historic Zoning Commission.

(d) Prior to the consideration of a special exception request by the Jonesborough Board of Zoning Appeals, a project plan shall be required and shall contain the following:

A general site plan drawn at a minimum scale of one inch equals one hundred feet (1" = 100') and the plan shall:

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[1]Reference to this section appears here as it did in Ord. #99-03 from which these provisions were taken. However, it is unclear to what section this refers since there is no section 74 in Ord. #99-03.

(i) Define the location, size, accessibility, special conditions, and existing zoning of the proposed project site;

(ii) The types of surrounding land uses;

(iii) The type of proposed development and the location of all existing and proposed buildings, parking areas, open spaces, natural areas and screening techniques; and

(iv) Any other such additional information as may be required to adequately review the request.

(e) A written report shall be required. This report shall contain a narrative noting that the property owners in the general vicinity of the proposed use or project have been notified. The report shall note all comments of these property owners. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-516. R-3 (High Density) Residential District. It is the intent of this district to provide areas for high density residential development plus open areas where similar development is likely to occur. The requirements for the district are designed to protect essential residential, historic, and aesthetic characteristics. Limited non-residential uses are permitted; provided they meet applicable standards and do not encourage general business activities. In order to achieve the intent of the R-3 (High Density) Residential District, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-2 (Medium Residential) District.

(2) Mobile home parks; provided that they conform to requirements of the mobile home park ordinance of the Town of Jonesborough, Tennessee.

(3) Medical offices; funeral homes; civic and fraternal organizations and clubs not operated for a profit; nursing homes; public recreational uses; and offices for doctors, lawyers, dentists, real estate agencies, insurance agencies, and other similar uses provided that they are located on major streets designated on the zoning map of the Town of Jonesborough, Tennessee; and provided that:

(a) A site plan, which shall include: the proposed location of structures, off-street parking, ingress and egress points, proposed utilities, and landscaping shall be submitted to the Jonesborough Planning Commission for approval.

(b) The building shall be placed not less than fifty feet (50') from all property lines.

(c) There is a planted buffer strip erected on the side and rear property lines.

(d) Existing buildings may be utilized; provided that the requirements of this chapter are met as closely as possible and that no parking shall be allowed in front yards. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-516A. R-4 (Transition) Residential District. It is the intent of this district to allow residential property in areas along or adjacent to arterial routes with adjacent or nearby commercial properties to be used for non-residential purposes; provided that they meet applicable standards, and the residential nature and character of any structure housing said non-residential activity is not changed. The requirements for the district are designed to preserve the neighborhood integrity of the surrounding area and to protect the essential residential, historic, and aesthetic characteristics. In order to achieve the intent of the R-4 (Transition) Residential District, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-3 (High Density) Residential District with the exception of mobile homes and mobile home parks which are expressly prohibited.

(2) Small retail shops such as gift shops, clothing, pharmacies, home décor shops, bakeries, florists, bookstores, antiques, hardward, shoe sales and repair shops, crafts and other similar retail establishments; provided that truck deliveries shall be limited to normal business hours.

(3) Barber and beauty shops.

(4) Branch banks.

(5) Video, audio, music, television and other electronic equipment sales and rental; provided that noise shall be minimized as follows: loud speakers, public address systems, electric amplifiers and other similar electronic equipment shall not be used or demonstrated where it can be heard outside of the building in which it is located; and further provided that truck deliveries shall be limited to normal business hours.

(6) Personal, business and professional service.

(7) Art galleries and frame shops.

(8) Bed and breakfast inns.

(9) Libraries and museums.

(10) Small clinics including: medical, dental, chiropractic, optical, osteopathic, veterinary and other similar operations, but not including methadone clinics.

(11) Small office buildings including governmental, private and professional offices including insurance, financial and legal offices.

(12) Uses permitted by approval as special exception. The following uses are permitted when approved by the board of zoning appeals as special exceptions:

(a) Daycare centers and schools; provided that playground areas are in the rear of the facility, screened, have minimal side and rear setbacks of thirty feet (30'), and do not operate past 7:00 P.M.

(b) Plant nurseries; provided that the area including store, yard and parking lot shall not exceed two (2) acres; ground cover is used to control dust, erosion and sedimentation; and truck deliveries are confined to normal business hours.

(c) Small cafés or eating establishments with seating seventy-five (75) seats or less and no drive-in windows.

(d) Nursing homes and assisted living units; provided buildings are placed not less than fifty feet (50') from side and rear property lines.

(e) Funeral homes; provided buildings are placed not less than fifty feet (50') from side and rear property lines.

(f) Lodges and clubs; provided buildings are placed not less than thirty feet (30') from side and rear property lines.

(g) The planning commission shall use the following criteria for considering special exemptions:

(i) Driveway ingress and egress and safety of motorists exiting and entering arterial road.

(ii) Location of parking.

(iii) Percentage of impervious parking area(s) within total site.

(iv) Frontage landscaping.

(v) The training, expertise, professional reputation, operational history of the applicant, etc. establishing some assurance that the operation will not be a nuisance to adjoining property owners if a special exemption is granted.

(13) The following uses are expressly prohibited within an R-4 zone:

(a) Gasoline service stations.

(b) Automobile, truck, motorcycle or vehicular sales, rental or repair.

(c) Farm, construction, lawn and other similar equipment sales, rental or repair.

(d) Tower structures.

(e) Car washes.

(f) Motels and hotels.

(g) Arcade and similar amusement centers.

(h) Package or other stores selling retail beer.

(i) Outdoor storage, salvage or junk yards.

(j) Shopping centers with more than three (3) business units per building and/or a building with more than a maximum of five thousand (5,000) square feet.

(k) Grocery stores larger than five thousand (5,000) square feet.

(14) Properties in an R-4 District to be used for non-residential purposes must also be located on major streets designated on the zoning map of the Town of Jonesborough, Tennessee; and provided that:

(a) A site plan, which shall include the existing location of structures, off-street parking, ingress and egress points, proposed utilities, stormwater mediation, and landscaping shall be submitted to the Jonesborough Planning Commission for approval.

(b) Any new building constructed shall be designed to be compatible to the adjoining residential properties, must meet the adopted R-4 building standards and guidelines, and the design must be approved by the planning commission prior to the issuance of a building permit.

(c) Any new primary structure shall be placed not less than twenty feet (20') from all property lines, or as required in the Jonesborough Zoning Ordinance - whichever is greater; however, the planning commission may require more set back footage for new buildings depending on the characteristics of the adjoining properties.

(d) There is a planted buffer strip on all property lines, a minimum of ten feet (10') wide when using an existing building; and a minimum of twenty feet (20') wide with new construction or as required in the landscape ordinance in § 11-611, "Buffering," whatever is greater.

(e) Existing buildings may be utilized; provided that the requirements of this chapter are met.

(f) Any parking areas are also screened with a ten foot (10') buffer, to the extent possible, from the adjoining properties and from the access street.

(g) The number of parking spaces must be approved by the Jonesborough Planning Commission based on the property size and use.

(h) To the extent possible, existing trees and vegetation are to be preserved.

(i) There shall be no more than one (1) freestanding sign per principal building which must be a monument sign with a sign face of no more than thirty (30) square feet per face and all signs shall not project above buildings nor have flashing or moving illumination. Although signs must be monument signs, the total sign and support structure height and distance of the sign face from the ground will be determined by the planning commission based on the following criteria:

(i) Topography of the property.

(ii) Location of plant material including trees.

(iii) Location of entrance.

(iv) Distance sign is located from front property line and from arterial road surface.

A sign schematic showing dimensions, as well as a location map showing distance from pavement, associated landscaping, and other features, as well as the principal building(s) must be submitted to the planning commission for approval.

The board of zoning appeals, upon consideration of the above criteria, may authorize a variance of up to twenty-five percent (25%) of the sign face square footage.

(j) Minimum yard requirements of existing buildings from property lines and maximum heights of structures shall be the same as in an R-3 zone.

(k) Frontage landscape areas shall meet the minimum requirements of § 11-615 of the Jonesborough Landscape Ordinance, however, wherever possible the planning commission shall require frontage landscape buffers of twenty feet (20').

(l) Unless a greater percentage results from the requirements of the Jonesborough Landscape Ordinance, non-residential developments in an R-4 zone will have a minimum of thirty percent (30%) open green-space within the property boundaries.

(m) Buildings will have a maximum size of five thousand (5,000) square feet and will have a maximum of three (3) non-residential spaces per building.

(n) There may only be one (1) principal building per acre of property, and in properties of more than one (1) acre, buildings must be a minimum of forty feet (40') apart as if they had to meet the setback requirements in § 11-516(14)(c).

(o) Lighting must be directed towards the grounds or buildings in such a manner that it does not illuminate areas outside of the property boundaries, nor produce glare that may affect the sight of passing motorists or be a nuisance to adjoining properties.

(p) Sidewalks may be required as determined by the planning commission, as well as possible access to the town's walkway system if it is constructed in reasonable proximity.

(q) To the extent possible, the planning commission will encourage use of frontage and service roads to reduce congestion and increase safety on the associated arterial road. (as added by Ord. #2002-08, May 2002, and replaced by Ord. #2003-09, June 2003)

11-516B. <u>R-4A (Special Transition) Residential District</u>. (1) It is the intent of this district to allow residential property in areas along major arterial routes, gateways into Jonesborough and especially at the intersection of what are or could be the intersections of major arterial routes, with adjacent nearby commercial properties or what the planning commission may determine to be logical locations for some future commercial activity, to be used for non-residential purposes; provided that they meet applicable standards, the residential nature and character of any existing structure housing said non-residential activity is not changed and that new construction meets the standards and guidelines established for the R-4A zone. The requirements for the district are designed to protect the essential residential, historic, and aesthetic characteristics of the area. In order to achieve the intent of the R-4A (Special Transition) Residential District, as may be shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(a) Any use permitted in an R-4 (Transition) Residential District, also with the exception of mobile homes and mobile home parks and warehouse structures which are expressly prohibited.

(b) Restaurants or eating establishments with more than seventy-five (75) seats that may have pick-up windows but not external menu boards and outside intercom type ordering.

(c) Markets that also sell gasoline or fuels but with no repair or service component; provided that:

(i) Detailed lighting plans are submitted with the initial site plan that shows a minimal approach to site lighting while maintaining reasonable safety standards.

(ii) Freestanding monument signs are no more than ten feet (10') in height and with a single side sign face totaling no more than seventy (70) square feet and any electronic messaging indicating gas prices only and a minimum of time between message changes of six (6) seconds with no transition time between changes. The board of zoning appeals upon consideration of the criteria established in § 11-516A(14)(i) of the R-4 zone ordinance may authorize a variance of up to twenty-five percent (25%) of the sign face square footage and height restrictions.

(iii) Building mounted signage meets the current sign ordinance standards for commercial properties.

(d) Markets, package or other stores selling retail beer; provided there is no external signage advertising beer (beverages with five percent (5%) alcohol or less) or individual varieties of beer. Note: Internal signage advertising beer or beer varieties, even signs inside glass windows facing the exterior, are permitted.

(e) Shopping centers with more than three (3) business units per building and/or a building with more than a maximum of five thousand (5,000) square feet; provided that:

(i) A master plan of the entire property is submitted to the planning commission for approval showing all building locations and building sizes to be constructed initially, if in phases, and all building locations and sizes intended with a complete build-out of the site. Any changes in the initial master plan for the property must be approved by the planning commission.

(ii) An architectural drawing of the design of the buildings showing external details and also indicating design efforts to reduce the effect of massing on the appearance of any building over five thousand (5,000) square feet, is submitted to the planning commission for approval.

(iii) The architectural drawing of each building to be constructed in the project or initial phase that is submitted meets the standards and guidelines for building in an R-4 zone, other than building size.

(iv) No individual business considered a "big box retailer," or over fifteen thousand (15,000) square feet is permitted.

(f) Unless specified otherwise above, all other uses listed in § 11-516A(13) of the R-4 zone ordinance are also prohibited in an R-4A zone.

(2) The standards and guidelines governing the design of new development and improvements to existing developments shall be the same standards and guidelines adopted for the R-4 zone. In addition, the following conditions also apply to development in an R-4A zone:

(a) Properties in an R-4A District to be used for non-residential purposes must meet the criteria established in § 11-516A(14) of the R-4 zone ordinance, with the exceptions otherwise established in this chapter including the following exceptions on setback requirements.

(i) R-4A developments that involve a master site plan including multiple buildings may request variances on set back requirements; provided that a buffering plan is indicated in the site plan and the current use of adjoining properties is identified and future use projected showing how the R-4A development will not negatively impact adjoining property owners.

(ii) The setbacks variances requested can be justified based on topography, highway or street considerations, and/or the attention given to providing functional open space and beautification.

(b) Developments within a R-4A zone that involve multiple buildings and the submittal of a master site plan, may request a separate freestanding development sign on the following conditions:

(i) The single side of the sign face is not more than one hundred (100) square feet.

(ii) The sign is a monument sign not more than twelve feet (12') in height.

(iii) The sign advertises the general name of the complex or development and not individual businesses.

(c) Developments within a R-4A zone that involve multiple buildings and the submittal of a master site plan must include within the site plan a pedestrian access plan showing the following:

(i) How pedestrians from adjoining properties can safely access the development.

(ii) How pedestrians can safely access all buildings and parking areas within the development.

(iii) The location of all sidewalks and walkways.

(iv) To what extent pedestrians can be separated from vehicular traffic within the development.

(v) Any possible connection to the town's walkway system (Lost State Scenic Walkway) where applicable.

(d) Developments within the R-4A zone that involve multiple buildings and the submittal of a master site plan must include within the

site plan a detailed point or points of vehicular access to the property showing steps taken to maximize safe ingress and egress to the arterial route(s) and any connecting side streets.

(e) Developments within the R-4A zone that involve multiple buildings and the submittal of a master site plan, must also submit the following:

(i) Locations on the site plan in which landscaping will be planted or constructed.

(ii) A landscape/beautification plan showing the location of plant material, including trees, and efforts to blend the development into the natural environment.

(iii) Beautification of points of ingress and egress.

(f) The street lighting must be underground and the type of street light fixture submitted with the site plan. (as added by Ord. #2012-01, Feb. 2012)

11-517. H-1 (Historical) District. It is the intent of this district to preserve historical buildings and sites in the Town of Jonesborough. The requirements of the district are designed to protect and preserve historic and/or architectural value; provide protection from uses that would lessen the significance of the surrounding uses; create an aesthetic atmosphere; stabilize property values; enhance civic beauty; strengthen the economy, and promote education and patriotic heritage of the present and future citizens of the community. In order to achieve the intent of the H-1 (Historical) District, as shown on the zoning map of Jonesborough, Tennessee the following uses are permitted:

(1) Any use permitted or allowable as a special exception in the underlying zoning district; provided that no building permit for construction, alteration, repair, moving, or demolition of any structure or any changes or improvements in the townscape within the district shall be issued by the building inspector until it is submitted to and receives approval in writing by the historic zoning commission. The historic zoning commission may, however, prepare a listing of prior approvals permitted in the historical district.

(2) No mobile homes are permitted.

(3) Dish antennas are permitted only as prescribed in § 11-1502.

(4) No transient business or temporary business permit may be located in the H-1 Historical District except as issued thought a special events permit. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and amended by Ord. #2012-04, April 2012)

11-517A. H-2 Overlay District. It is the intent of this district to extend and enhance the historic and visual characteristics of Jonesborough's historic core into adjacent areas while permitting both residential and commercial development. The requirements of the district are intended to safeguard the

historic core, preserve visual qualities, stabilize property values, enhance civic beauty, strengthen the economy and encourage compatible residential and commercial development. In order to achieve the intent of the H-2 Overlay District which when used will be shown on the zoning map of Jonesborough, Tennessee the following uses are permitted:

(1) Any use permitted in the underlying zoning district; provided that no building permit for construction, alteration, repair, moving, or demolition of any structure or changes or improvements in the townscape within the district shall be issued by the building inspector until it is submitted to, and received approval in writing by, the historic zoning commission. The historic zoning commission shall review all such applications according to standards and guidelines applicable to the H-2 Overlay District.

(2) No mobile homes are permitted.

(3) Dish antennas are permitted only as prescribed in § 11-1502.

(4) No transient business or temporary business permit may be located in the H-2 Historical District except as issued through a special events permit. (as added by Ord. #2001-16, Dec. 2001, and amended by Ord. #2012-04, April 2012)

11-517B. <u>TF-1 (Treatment Facility) Overlay District</u>. It is the intent of this district to provide suitable locations for methadone clinics and substance abuse facilities within the Town of Jonesborough.

(1) These facilities are defined as follows:

(a) "Methadone treatment clinic or facility." A building or a portion of a building, other than a clinic containing offices, facilities designated space with the predominate, substantial, or significant purpose of providing outpatient treatment or counseling of patients and the distribution of methadone, or any other substance used to treat substance abuse, for out patient, non-residential purposes only. A methadone treatment clinic or facility is not a medical office clinic or substance abuse treatment facility.

(b) "Substance abuse treatment facility." A building or portion of a building, other than a clinic containing offices, facilities or designated space with the predominant, substantial, or significant purpose of providing outpatient treatment, counseling or similar services to individuals who are dependent on legal or illegal drugs, opiates, alcohol or other similar substances. Staffing by physicians who have received a waiver or have been certified or should have received a waiver or be certified by the Substance Abuse Treatment Act of 2000 and subsequent amendments or enactments shall create a presumption that the building or portion of a building should be designated a substance abuse treatment facility. A substance abuse treatment facility is not a clinic or a medical office.

(2) Methadone treatment clinic and/or substance abuse treatment facilities can be located in a TF-1 (treatment facility) overlay zone; provided:

(a) The methadone treatment clinic or substance abuse treatment facility must obtain the appropriate license and verification if needed by the State of Tennessee.

(b) A map showing the site, existing land use, distances from schools and churches within five hundred feet (500') must be provided setbacks meeting existing zone, buffering, etc. to the planning commission.

(c) The methadone treatment clinic or substance abuse treatment facility is not located within five hundred feet (500') of a church or school. (as added by Ord. #2010-05, April 2010)

11-517C. RLS (Retail Liquor Store) Overlay District. It is the intent of this district to allow retail liquor stores, as defined in title 2, chapter 1, § 2-108(1) of the Jonesborough Municipal Code, to be located in areas that provide the best opportunity for the stores to be successful with the least negative impact on the Jonesborough community. (as added by Ord. #2010-12, Dec. 2010, and replaced by Ord. 2016-02, Feb. 2016 ***Ch 12_04-09-18***)

11-517D. Distilling Company Overlay District. It is the intent of this district to provide suitable locations for the possible operation of a distilling company meeting all state and federal requirements that legally manufactures and sells intoxicating liquors within the corporate limits of the Town of Jonesborough.[1]

(1) These facilities are defined as follows: A facility that manufactures intoxicating liquors including alcohol, spirits, liquors, wines and every liquid or solid, patented or not, containing alcohol, spirits, liquor or wine, and capable of being consumed by human beings, but nothing in this section shall be construed or defined as including or relating to the manufacture of any beverage with alcohol content of five percent (5%) or less.

(2) In order to achieve the intent of the Distilling Company Overlay District, the requirements of this overlay district are established to locate any manufacturer of intoxicating liquors in an appropriate location that is deemed suitable for such purpose; enhancing the local economy, increasing the potential of the town, while ensuring the safety and general welfare of visitors and residents.

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[1]State law reference

Tennessee Code Annotated, § 57-2-102.

The privilege tax payment of one thousand dollars ($1,000.00) is established by ordinance 2014-02, March 2014 in order to be licensed with the town to engage in the manufacturing of intoxicating liquors.

(3) The DC Overlay District when approved will be shown on the zoning map of Jonesborough.

(4) The underlying properties of the overlay zone will normally be a business or manufacturing zone.

(5) The DC overlay may be within the historic district, especially when the operation is developed to accommodate tourists, and there is a retail component that can enhance the economic well-being of Jonesborough's historic downtown area.

(6) Distilling company facilities can be located in the DC overlay zone; provided:

(a) The manufacturing facility meets all state and federal requirements for the legal manufacture and sale of intoxicating liquors.

(b) The manufacturing building is five hundred feet (500') from an active church or school, as measured directly from building to building, unless in a B-2 Central Business District where this distance requirement building to building is one hundred fifty feet (150').

(c) A site plan and map is submitted to the Jonesborough Regional Planning Commission for approval providing the following information:

(i) The availability of parking.

(ii) Adequate pedestrian access.

(iii) Schematic of building showing location on property, setbacks, street access, exterior lighting, any changes impacting drainage and stormwater management and utilities.

(iv) Odor control plan.

(v) General overview of business plan including any area for retail liquor sales.

(vi) If in the historic district, approval is required from the historic zoning commission on any exterior building improvements and signage.

(d) The Jonesborough Regional Planning Commission reviews and approves the site plan and the use of the property for a distilling company manufacturing intoxicating liquors.

(e) A landscape plan must be submitted to the tree and townscape board and be approved before a regular certificate of occupancy is issued. (as added by Ord. #2014-02, March 2014)

11-518. <u>B-1 (Neighborhood) Business District</u>. It is the intent of this district to establish business areas to serve surrounding residential districts. The district regulations are intended to discourage strip business development and encourage grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-1 (Neighborhood Business) District, site plans shall be required for all new

construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

(1) Any used permitted in the R-3 (Residential) District except mobile homes and mobile home parks.

(2) Shopping centers, grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, laundromats and laundry pick-up stations, and similar use. Restaurants are not permitted in a B-1 zone except along an arterial route and on the condition a site plan that includes parking and access is submitted to and approved by the planning commission.

(3) Business signs; provided that all signs, except one (1) detached sign, shall be erected flat against the front or side of a building or within eighteen inches (18") thereof. All signs shall not project above buildings nor have flashing intermittent or moving illumination, except that electronic signs may be permissible in a B-1 zone along arterial streets when conditions for such signs, as stipulated in the sign ordinance, have been met.

(4) Gasoline service stations; provided that all structures, including underground storage tanks, shall be placed not less than twenty feet (20') from all property lines. Points of access and egress shall be not less than fifteen feet (15') from intersection of street lines.

(5) Accessory uses, structures, and outdoor storage accessory uses, structures and outdoor storage shall not be located closer than ten feet (10') to any property line. Accessory uses shall include temporary business activity associated with the property like tent sales, clearance sales, special promotions, etc. that are not of longer duration than two (2) weeks. Temporary business activity of longer duration than two (2) weeks mut be approved by the planning commission. Temporary business activity outside on the same property may only be undertaken once each quarter or a maximum of four (4) times a year. Accessory uses in front and side yards may be required, at the discretion of the building inspector, to be screened from public view.

(6) Transient and temporary business activity provided that:

(a) Guidelines for a transient business license are followed.

(b) Guidelines for a temporary business permit, as established in § 5-102 of the municipal code, are followed, and the following information is submitted to town staff for review and the Jonesborough Regional Planning Commission for approval as part of the temporary business permit process:

(i) Location of temporary premises showing property lines, boundary of temporary premises, and listing of owner.

(ii) Location of existing street(s), and points of ingress and egress.

(iii) Location on the temporary premises of any vehicles or any structures, existing or to be installed, on the temporary premises, to be used in merchant activity.

(iv) Schematics and/or photos of vehicles, structures to be used.

(v) Area for parking on temporary premises may not be public right-of-way, including surface condition of parking area before and after any improvements.

(vi) Location of public right-of-way in relationship to temporary premises.

(vii) Setbacks, showing property lines and that any structure location meets the setback requirements established for the zone of the property in which the temporary business is located.

(viii) Location of any utilities, if present.

(ix) Location of any lighting, existing or to be installed.

(x) Schematic of signage to be used.

(xi) Buffering, if buffering would be required in the landscape ordinance. However, the planning commission will review any buffering plan and at its discretion may authorize a variety of effective temporary measures to provide appropriate screening.

(xii) Landscaping plan, and maintenance plan for grounds. The landscape plan shall include how through underpinning or screening the undercarriage of any mobile structure is addressed. The location of any potted or permanent plant material must be shown. The planning commission reserves the right to deny any application for a temporary business permit in which the commission feels will negatively impact surrounding properties and the historical character of Jonesborough.

(c) Signage for a transient or temporary business is restricted to sixty-four (64) square feet which can be on one (1) freestanding sign with a limit of thirty-two (32) square feet per side, or on a structure or combination thereof with no individual sign being larger than thirty-two (32) square feet. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and amended by Ord. #2003-03, Feb. 2003, Ord. #2011-12, Sept. 2011, Ord. #2012-04, April 2012, and Ord. #2012-12, Sept. 2012)

11-519. <u>B-2 (Central) Business District</u>. It is the intent of this district to establish an areas for concentrated general business development that the general public requires. The requirements are designed to protect the essential

characteristics of the district by promotion of business and public uses which serve the general public and to discourage industrial, and wholesale development which do not lend themselves to pedestrian traffic. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-2 (Central) Business District, site plans shall be required for all new construction.

These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

(1) Single- and multi-family residences.

(2) Stores and shops conducting retail business.

(3) Personal, business, and professional services.

(4) Public and semi-public buildings and uses.

(5) Lodges and clubs; hotels and motels; restaurants and similar services.

(6) Business signs.

(7) Temporary business activity; provided that:

(a) A temporary business permit is issued by the planning commission.

(b) The information required in § 11-518(6)(b) of this chapter is submitted as part of the temporary business permit process.

(c) Signage for a temporary business is restricted to sixty-four (64) square feet which can be on one (1) freestanding sign with a limit of thirty-two (32) square feet per side, or on a structure or combination thereof with no individual sign being larger than thirty-two (32) square feet.

(d) Temporary business permits are prohibited in the B-2 zone within the H-1 or H-2 historic zones.

(8) Temporary business activity associated with the property like tent sales, clearance sales, special promotions, etc., that are not of longer duration than two (2) weeks. Temporary business activity of longer duration than two (2) weeks must be approved by the planning commission. Items for sale on the property that are taken inside the business each night is not considered accessory temporary business activity. Temporary business activity outside on the same property may only be undertaken once each quarter or a maximum of four (4) times a year. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and amended by Ord. #2012-04, April 2012)

11-520. <u>B-3 (Arterial)Business District</u>. It is the intent of this district to establish business areas that encourage groupings of compatible business

activities; reduce traffic congestion to a minimum and enhance the aesthetic atmosphere. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-3 (Arterial) Business District, site plans shall be required for all new construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

(1) Any use permitted in B-1 or B-2 business districts.

(2) Automobiles sales and service, and mobile home sales.

(3) Funeral homes.

(4) Places of amusement and assembly.

(5) Other similar uses.

(6) Food stores selling wine. (as added by Ord. #94-10, Sept. 1994, and amended by Ord. #2016-03, Feb. 2016 ***Ch12_04-09-18***)

11-521. <u>B-4 (Intermediate) Business District</u>. (1) It is the intent of this district to establish an area adjacent to the B-2 (Central Business) District which will support those uses. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-4 (Intermediate Business) District, site plans shall be required for all new construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

(2) Any use permitted in the B-1 or B-2 business districts except shopping centers and gasoline service stations. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-522. <u>B-5 (Heritage Business) District</u>. (1) It is the intent of this district to establish an area immediately adjacent to or within the historic district which supports limited business use and which supports the intent of the requirements of the historic district. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and to achieve the intent of the B-5 Heritage Business District, site plans shall be required for all new construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other places deemed pertinent. Prior to the issuances of a building permit, the

site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee. Development plans for parcels within the historic district must be approved by the historic zoning commission.

(2) Any use permitted in the B-1 or B-2 business district except shopping centers; gasoline stations; automobile sales, parts or service; mobile homes; hotels and motels. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-523. B-6 (Urban Commercial Corridor) District. It is the intent of this district to encourage the use of property for commercial and residential purposes and to provide for special protection to areas not in the district but highly influenced by its development.

(1) Site plans shall be required for all new construction. The site plan shall be reviewed and approved by the Jonesborough Regional Planning Commission. Development of property in this district shall be subject to the following standards:

(a) The rear yard setback requirement on parcels of one (1) acre or less shall be thirty feet (30'), side setback shall be ten feet (10'), and front setbacks shall be thirty feet (30').

(b) The rear yard setback requirement on parcels of more than one (1) acre shall be forty feet (40'), side setback shall be twenty feet (20'), and front setbacks shall be thirty feet (30').

(c) There shall be a minimum of twelve foot (12') natural landscape buffer on the rear perimeter of parcels of one (1) acre or less. The twelve foot (12') natural landscape buffer shall be maintained and meet the same standards for buffers in §§ 11-611 and 11-612 in the Jonesborough landscape ordinance. The B-6 zone shall have a medium impact classification for buffer determination in § 11-611, however, when the rear and side buffer requirements in this subsection (1) are greater than the landscape ordinance, the greater requirement shall apply.

(d) There shall be a minimum of twenty foot (20') natural landscape buffer on the rear perimeter of parcels of more than one (1) acre. The twenty foot (20') natural landscape buffer shall be maintained and meet the same standards for buffers in §§ 11-611 and 11-612 in the Jonesborough landscape ordinance.

(e) There shall be a ten foot (10') side setback natural landscape buffer on parcels one (1) acre or less, and a twenty foot (20') side setback natural landscape buffer on parcels greater than one (1) acre.

(f) The Jonesborough Planning Commission may require less buffering in any or all perimeters based on existing lot size, topography, drainage, etc.

(g) There shall be no more than one (1) freestanding sign on each parcel, or as may be allowed by the Jonesborough sign ordinance.

The sign shall not exceed fourteen feet (14') in height. Sign face area shall not exceed a maximum of one hundred (100) square feet or such criteria that may be established in the future through amendment of the sign ordinance. The planning commission and board of zoning appeals shall have the same discretionary authority established in the sign ordinance to issue variances for signs in business zones.

(h) Buildings shall be no higher than seventy feet (70').

(2) Uses permitted include:

(a) Any use permitted in the R-3 (High Residential) District except manufactured homes and manufactured home parks.

(b) Shopping centers, grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, restaurants and similar uses as determined by the Jonesborough Regional Planning Commission.

(c) Stores and shops conducting retail business.

(d) Public and semi-public buildings and uses.

(e) Hotels and motels, and similar services.

(f) Business signs.

(g) Transient and temporary business activity under the guidelines established in §§ 11-518(5) and (6) of this chapter.

(h) Food stores selling wine. (as added by Ord. #99-03, May 1999, and amended by Ord. #2009-07, June 2009, Ord. #2012-04, April 2012, and Ord. #2016-03, Feb. 2016 ***Ch12_04-09-18***)

11-524. M-1 (Manufacturing Warehouse) Restricted Manufacturing and Warehouse District. This industrial district is established to provide areas in which the principal use of the land is for light manufacturing and warehousing. It is the intent that permitted uses are conducted so that any excessive noise, odor, dust, and glare of an operation be completely confined within an enclosed building. These regulations are intended to prevent friction between uses within the district and also to protect nearby residential districts, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in a business district except restaurants.

(2) Bakers, bottling works, cabinet making, carpenter's shop, clothing manufacture, dairy, electrical welding, fruit making or packing, ice plant, laundry, machine shop, milk distribution stations, optical goods, paper boxes, and pencil manufacturers, printing, publication or engraving concern, tinsmith shop, trucking terminal, and warehouse.

(a) Other uses of the same general character as those listed above deemed appropriate by the Jonesborough Regional Planning Commission.

(b) On lots that abut a residential district the Jonesborough Regional Planning Commission may require all buildings and

improvements to be properly screened and shall be located so as to comply with the side yard requirement of the adjacent residential district.

(c) Any structure or equipment essential to the operation shall be set back so as not to visually or physically obstruct a public way. (as added by Ord. #2003-05, Feb. 2003)

11-525. M-2 (Industrial) District. It is the intent of this district to establish industrial areas. The requirements of the district regulations will protect industrial characteristics, promote the industrial business and wholesale uses, and discourage residential development. In order to achieve the intent of the M-2 (Industrial) District, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in B-1, B-2, B-3, or B-4 business districts, except residences and restaurants.

(2) Any industry which, in the opinion of the building inspector, does not cause obnoxious noise, fire hazards, or other objectionable conditions.

(3) Wholesale businesses, warehouses, wrecking and storage yards.

(4) Terminals.

(5) Adult-oriented establishments subject to meeting all requirements of § 11-504 of this chapter. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, amended by Ord. #2003-03, Feb. 2003, and amended and renumbered by Ord. #2003-05, Feb. 2003)

11-526. Exceptions and modifications. (1) Lot of record. Where the owner of a lot consisting of one (1) or more lots of official record, at the time of the adoption of this chapter, does not own sufficient land to enable him/her to submit an application to the board of zoning appeals for a variance from the terms of this chapter. Such lot may be used as a building site; provided, however, that the yard and other requirements of the district are complied with as closely as is possible.

(2) Adjoining and vacant lots of record. A plat of land consisting of one (1) or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by this chapter, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one (1) ownership shall be subjected to the requirements of this chapter.

(3) Front yards. The front yard requirements of this chapter shall not apply to any lot where the average depth of existing front yards on developed lots, located within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

(4) Group housing projects. In case of a group housing project or two (2) or more buildings to be constructed on a plot of ground of at least one (1) acre

not subdivided into the customary streets and lot and which will not be so subdivided or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this chapter to the individual building units in such housing projects, a special exception to the terms of this chapter may be made by the board of zoning appeals in a manner that will be in harmony with the character of the neighborhood, will ensure substantially the same character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by this chapter in the district in which the project is to be located. However, in no case shall the board of zoning appeals authorize a use prohibited in the district in which the project is located, or a smaller lot area per family than the minimum required in such district or a greater height, or a larger coverage than the requirements of this chapter permit in such a district.

(5) Exception on height limits. The height limitations of this chapter shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derrick conveyors, flagpoles, radio towers, masts and aerials. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-527. Enforcement. (1) Enforcing officer. The provisions of this chapter shall be administered and enforced by the Jonesborough Building Inspector. This official shall have the right to enter upon any premises necessary to carry out his duties on the enforcement of this title, and in additional shall:

(a) Issue all building permits and make and maintain records thereof.

(b) Issue all certificates of occupancy and make and maintain records thereof.

(c) Where applicable, issue and review all temporary use permits and make and maintain records thereof.

(d) Maintain and keep current zoning maps, and records of amendments thereto.

(2) Building permit required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued for such work a building permit including a statement that the plans, specifications, and intended use of such building in all respects conform with the provisions of this chapter. Application for a building permit shall be made to the Jonesborough Building Inspector.

(3) Issuance of building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location of all buildings to be erected,

altered or moved, and any building on the lot. He shall also state existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of this chapter are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this chapter, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with cause.

(4) Certificate of occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three (3) days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a certificate of occupancy if the building or structure is found to conform to the provisions of this chapter and the statements made in the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered, or changed in its use, shall be used until such a certificate of occupancy has been granted.

(5) Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars ($2.00) nor more than five hundred dollars ($500.00) for each offense. Each day such violation shall continue shall constitute a separate offense.

(6) Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the building inspector, any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation in addition to other remedies may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy or use of such building. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999,and renumbered by Ord. #2003-05, Feb. 2003)

11-528. Board of zoning appeals. (1) Creation and appointment. A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, § 13-7-205, volume 3, same being section 5, chapter 44 of Public Acts of Tennessee of 1935. The Jonesborough Planning Commission is hereby designated as the board of zoning appeals and the terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Jonesborough Planning Commission.

(2) Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All

meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

(3) Appeals: how taken. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in the whole or part on provisions of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or attorney.

(4) Powers. The board of zoning appeals shall have the following powers:

(a) Administrative review: To hear and decide appeals where it is alleged by the appellant that there is error in any order requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of this chapter.

(b) Special exceptions: To hear and decide special exceptions to this chapter as set forth in this chapter.

(c) Variance: To hear and decide applications for variance from the terms of this chapter, but only where, by reasons of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this chapter was a lot of record; or where by reason of exceptional topographical conditions or other extra ordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of this chapter would result in exceptional and undue hardship upon the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this chapter. Before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood.

(5) Action of the board of zoning appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-529. Historical zoning commission. (1) Creation and appointment. In accordance with Tennessee Code Annotated, § 13-7-401, a historical zoning commission is hereby established. The board of mayor and aldermen shall create a nine (9) member historical zoning commission which shall consist of a representative of a local patriotic or historical organization; an architect, if available, and a member of the planning commission, at the time of his/her appointment. The remaining members shall be appointed from the community in general. Historical commission members shall be appointed by the mayor of Town of Jonesborough and shall be confirmated by the board of mayor and aldermen. Appointments to membership on the historical zoning commission shall be arranged so that the term of one (1) member shall expire each year and his successor shall be appointed in like manner in terms of five (5) years. All members shall serve without compensation.

(2) Procedure. Meetings of the historical zoning commission shall be held at the call of the chairman or by the majority of the membership. All meetings of the commission shall be open to the public. The commission shall keep minutes of its procedures showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact.

(3) Powers and duties. The historical zoning commission shall have the following powers which shall be limited to the H-1 Historic District.

(a) To request detail construction plans and related data pertinent to thorough review of any proposal before the commission.

(b) Historical zoning commission shall, within thirty (30) days following availability of sufficient data, direct the granting of a building permit with or without conditions or direct the refusal or a building permit; providing the grounds for refusal are stated in writing.

(c) Upon review of the application for a building permit, the historical zoning commission shall give prime consideration to:

(i) Historic and/or architectural value of present structure.

(ii) Relationship of exterior architectural features of such structure to the rest of the structures of the surrounding area.

(iii) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used.

(iv) To any other factor, including aesthetic which is deemed pertinent.

(d) In no case shall the commission grant variances from the terms of this title.

(4) Jurisdiction. The historic zoning commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order or judgment of the commission may have said order of judgment reviewed by the courts by procedures of certiorari as provided for in the Tennessee Code Annotated, §§ 27-9-102 and 27-9-103. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-530. Area, yard, and height requirements.

District	Minimum Lot Size Sq. Ft.			Minimum yard Requirements From Property Lines			Maximum Height of Structures
	Area in Sq. Ft.	Per Additional Family	Lot Width in Feet	Front	Side (each side)	Rear	
R-1	15,000	7,500	80 ft.*	30 ft.	15 ft.	25 ft.	35 ft.
R-2	12,000	4,500	50 ft.*	30 ft.	8 ft. per story	20 ft.	35 ft.
R-3	6,000	2,000	50 ft.*	30 ft.	8 ft. per story	20 ft.	35 ft.
H-1	As Required In Specific District						
B-1				30 ft.	10 ft.	25 ft.	35 ft.
B-2							70 ft.
B-3				30 ft.	10 ft.	25 ft.	70 ft.
B-4				30 ft.	10 ft.	25 ft.	70 ft.
B-5				30 ft.	10 ft.	25 ft.	35 ft.
M-1				30 ft.	20 ft.	25 ft.	70 ft.

*Except forty feet (40') on cul-de-sac
(as renumbered by Ord. #2003-05, Feb. 2003)

11-531. Amendment. (1) Procedure. The board of mayor and aldermen may amend the regulations, restrictions, boundaries, or any provision of this title. Any member of the town board may introduce such amendment, or any official, board or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to this chapter.

(2) Approval by planning commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions to the planning commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of the majority of the entire membership of the town board to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said board shall be deemed favorable.

(3) Introduction of amendment. Upon the introduction of an amendment to this chapter or upon the receipt of a petition to amend this chapter, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the Town of Jonesborough, Tennessee. Said hearing by the board of mayor and aldermen shall take place not sooner than fifteen (15) days after the date of publication of such notice. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-532. Legal status provisions. (1) Conflict with other ordinance. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Jonesborough, 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. This chapter shall take effect and be in force fifteen (15) days from and after its passage, the public welfare demanding it. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

CHAPTER 6

LANDSCAPING REQUIREMENTS

SECTION

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11-601. Short title. This chapter shall be known as the Landscape Ordinance of the Town of Jonesborough, Tennessee. (Ord. of Jan. 8, 1970, § 71, as amended by Ord. of April 8, 1980, § 1, and Ord. of Jan. 13, 1986, art. III, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-602. Purpose. The purpose of this chapter, authorized by chapter 44 of 1935 Public Acts of Tennessee, as amended, is to promote and regulate the planting, protection, and maintenance of trees, shrubs, and other landscaping materials in order to ensure land use compatibility and lessen the impact on the community of high intensity users while at the same time encouraging economic development. The chapter attempts to enhance the town's environment and visual character for its citizens' use and enjoyment, while safeguarding property

values by promoting high quality development. Finally, the chapter attempts to preserve and/or stabilize the area's ecological balance, and mitigate the effects of air, water and noise pollution. (Ord. of Jan. 8, 1970, § 72, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-603. Definitions and interpretations. (1) "Berm." A mound of soil or man-made raise area used to obstruct views, decrease noise, and/or otherwise act as a buffer between incompatible land uses.

(2) "Buffer." An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, wall, and/or berms, designed to limit continuously the view of and sound from the site to adjacent sites of properties.

(3) "Caliper." The diameter of a tree trunk measured in inches, six inches (6") above ground level for trees up to four inches (4") in diameter and twelve inches (12") above ground level for trees over four inches (4") in diameter. Caliper is a common means of measuring trunk diameter on young trees.

(4) "Certificate of occupancy." A document issued by the building inspector which permits the occupancy or use of a building and which certifies that the structure for use has been constructed, arranged, and will be used in compliance with all applicable codes.

(5) "Curb." A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved areas.

(6) "DBH (Diameter Breast Height)." The diameter of a tree measured four and one-half feet (4-1/2') above ground level. DBH is common means of measuring the diameter of large trees.

(7) "Deciduous." Plants that drop their foliage annually before becoming dormant.

(8) "Developer." The legal or beneficial owner or owners of a lot or of any land included in a proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

(9) "Development." Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, dredging, drilling operation, excavation, filling, grading, paving, or the removal of healthy trees over six inches (6") DBH.

(10) "Drip line." A vertical line extending from the outer edge of the canopy of a tree to the ground.

(11) "Evergreen." A plant with foliage that remains green year-round.

(12) "Frontage landscaped area." A landscaped area located at the perimeter of the lot along all abutting public streets.

(13) "Hedge." A landscape barrier consisting of a continuous, dense planting of shrubs.

(14) "Impervious surface." A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

(15) "Incompatibility of land uses." An issue arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

(16) "Interior planting island." An island located within the interior of a parking lot.

(17) "Island." A raised area, usually curbed, placed to protect landscaping and separate traffic flow.

(18) "Landscape specialist." For purposes of this chapter, a landscape specialist shall include anyone with a professional training and experience in the principles of landscaping.

(19) "Lot." A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or build upon as a unit.

(20) "Maintenance guarantee." Any security which may be required and accepted by the Jonesborough Regional Planning Commission to ensure that necessary improvements will function as required for a specific period of time.

(21) "Mulch." A layer of wood chips, dry leaves, straw hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

(22) "Nursery." Land or green houses to raise flowers, shrubs, and plants for sale.

(23) "Off-street parking." A parking space provided in a parking lot, parking structure, or private driveway.

(24) "Ornamental tree." A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

(25) "Overhang." The portion of a vehicle extending beyond the wheel stops or curb.

(26) "Performance guarantee." Any security that may be accepted by the Jonesborough Regional Planning Commission as guarantee that the improvements required as part of an application for development are satisfactorily completed.

(27) "Protective screening." A structure of plantings, consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

(28) "Setback." The distance between the building and any lot line.

(29) "Shade tree." A tree, usually deciduous, planted primarily for overhead canopy.

(30) "Shrub." A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base usually not more than ten feet (10') in height at maturity.

(31) "Sight distance triangle." A portion of land formed by the intersection of two (2) street right-of-way lines and points along each right-of-way thirty feet (30') from the intersection. Within this triangle nothing shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. In general, this would mean that a clear view shall be provided between the heights of three feet (3') and fifteen feet (15') within the sight distance triangle.

(32) "Specimen tree." A particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

(33) "Street, public." A public right-of-way set aside for public travel which:

(a) Has been accepted for maintenance by the Town of Jonesborough; or

(b) Has been dedicated to and accepted by the Town of Jonesborough for public travel by the recording of a street plat or a plat of subdivision which has been approved by the planning commission.

(34) "Topsoil." The original layer of soil material to a depth of six inches (6") which is usually darker and richer than the subsoil.

(35) "Vision clearance." A condition which is achieved when nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. (Ord. of Jan. 8, 1970, § 73, as amended by Ord. of Jan. 13, 1986, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-604. Site plan information required. Because the landscape plan is often not submitted for approval until after the other required aspects of a site plan have been approved by the planning commission, the following information is required in the initial site plan submitted:

(1) Location and dimensions of buffer areas;

(2) General size, species, number and location of existing tree and shrub species in required buffer and setback areas;

(3) Approximate location, size and species of any tree recommended for preservation by the urban forester or qualified staff, if the information has been made available. Information provided by the urban forester may be attached to the site plan if not included on the plan;

(4) Location and description of any tree protection devices that need to be installed prior to the beginning of grading or excavation;

(5) Location and dimensions of frontage landscape areas;

(6) Location and dimensions of required parking lot planting areas;

(7) Summary listing of landscape requirements based on landscape ordinance. (Ord. of Jan. 8, 1970, as amended by Ord. of Jan. 13, 1986, replaced by Ord. #2001-15, Dec. 2001, and amended by Ord. #2002-04, March 2002, and replaced by Ord. #2009-09, Sept. 2009)

11-605. The landscaping plan. A generalized landscape plan shall be submitted whenever a site plan is required by the Jonesborough Planning Commission or through the Jonesborough Zoning Ordinances. Plans shall be submitted at least ten (10) business days prior to the regular meeting date of the commission so they can first be reviewed by the Jonesborough Tree and Townscape Board. The tree and townscape board will submit comments, recommendations, or concerns to the planning commission to be included in its review. At minimum, the landscape plan shall indicate:

(1) The size, location, number, and type of species involved in proposed frontage landscaped areas, landscape islands within parking lots, and screening, and buffers.

The Jonesborough Urban Forester or qualified staff shall, when possible, undertake a field review of the site plan area and mark specimen trees that should be preserved when possible because of one (1) of the following:

(a) The tree represents a quality specimen of its species and would require numerous years to duplicate;

(b) The tree represents a hard-to-find native species; or

(c) The location of the tree provides a natural buffer from adjoining properties or facilities.

Contractors or developers are expected to explore ways to preserve these designated trees and provide reasonable justification for removing said trees in the site grading process. The information from the urban forester or qualified staff should be included on the landscape plan or attached to the plan along with any justification for removing trees.

(2) The distance of plantings to be used for landscaping from intersections (include and highlight location of all sign distance triangles), utility lines and other potential points of conflict. Each developer shall be responsible for coordinating the location of plantings with the existing and/or proposed location of above and below ground utilities, including street lights.

(3) The number of parking spaces and/or the square footage of area designated for parking.

(4) The distance of the farthest individual parking space from a required parking lot tree.

(5) The zoning associated with both the proposed development and surrounding properties.

(6) The types of activities conducted on adjacent properties.

(7) The general location of existing specimen trees, if any.

(8) Where existing plantings are to be retained and how these plantings will be protected during the construction process. Drawings shall delineate the drip line of trees desired for preservation.

(9) Location and description of other landscape improvements, such as earth berms, walls, fences, and screens.

(10) Any other information as may be required to assess compliance with this chapter. (Ord. of Jan. 8, 1970, § 75, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-606. Protection of existing plantings. Where existing plantings are to be preserved, as noted in the landscape plan, the following protection measures or the performance base equivalents shall apply:

(1) Species intended for preservation on the landscape plan shall be clearly marked with protective fencing or some other approved barrier that is placed at the designated distance on the approved site plan or a distance approved by the urban forester or qualified staff prior to the initiation of excavation. Species designed for preservation should be protected prior to the beginning of grading or the establishment of building pads or paved areas.

(2) No soil should be placed around trees that are intolerant of fill and are to be saved. Dogwoods, birches, oaks, and sugar maples and most conifers are, for example, intolerant to fill because their roots are often near the surface.

(3) Stockpiling of soil resulting from grading shall be located only in open areas. No material or temporary soil deposits shall be placed within four feet (4') of shrubs or ten feet (10') of trees designated for preservation.

(4) No soil shall be disturbed in a ten foot (10') radius or, if greater, within the drip line of the tree(s) to be preserved.

(5) Barriers used to protect existing plantings shall be self-supporting (i.e., not supported by the plants they are protecting), a minimum of three feet (3') high, and constructed of durable material that will last until construction is completed.

(6) Should machinery, during the construction process, be required to cross though a protected zone, at least four (4") inches of chip mulch shall be placed on the ground to displace the weight of machines and prevent loss of pores in the soil that allow passage of air and water to roots.

(7) After construction, curbing placed around existing trees shall be at least three and one-half feet (3-1/2') from the base of the tree, as measured six inches (6") above the ground, or no closer than the halfway point between the drip line and the trunk of the tree, whichever distances is greater. (Ord. of Jan. 8, 1970, § 76, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-607. Standards for accepting existing plantings. Existing plantings will only be accepted as fulfilling the landscaping requirements of this chapter where they meet the following requirements:

(1) They are healthy and listed as an acceptable species in the list of acceptable species maintained by the Jonesborough Building Inspector.

(2) They do not and are not likely to interfere with utilities, vision clearance standards, or obscure street lights.

(3) They meet the size, location, and other applicable requirements of this chapter. (Ord. of Jan. 8, 1970, § 77, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-608. Incentives for preserving specimen trees and existing plantings. To encourage for the preservation of a specimen tree or significant wooded area, setback requirements along side and rear property lines may, upon review and approval by the board of zoning appeals, be reduced by as much as twenty-five percent (25%). Also, the number and size of required parking spaces may, if approved by the planning commission, be modified to encourage the preservation of existing plantings. (Ord. of Jan. 8, 1970, § 78, as amended by Ord. of Oct. 8, 1974, § 3, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-609. General landscape design standards. (1) General size specifications. At the time of planting, all required trees shall have a minimum trunk diameter of at least two inches (2"), as measured at six inches (6") above the ground, and shall be nursery grown. All required trees shall have a minimum height of six feet (6') when planted. All required shrubs used for buffering shall have a minimum height of two feet (2') when planted and shall be capable of reaching a minimum height of three feet (3') within three (3) years of planting. All shrubbery shall be nursery grown.

(2) Tree types. Tree type may vary depending on overall effect desired. However, where ten (10) or more new trees are required, a mixture of more than one (1) species shall be provided to create a natural look and guard against the possibility of disease obliterating all required trees. As a rule, trees should be indigenous, relatively fast growing, not particularly susceptible to insects and disease, long-living, and require little care. A list of acceptable tree species is maintained by the urban forester or other staff and trees not found on the list may be credited as a required tree; provided that the tree and townscape board is provided with justification for the species from a developer or the urban forester or qualified staff and the board approves the species submitted.

(3) General spacing standards. Proper spacing distances depend on the tree type, its growing habits, and whether freestanding specimens or an interlaced canopy is desired. As a general rule, unless a canopied effect is desired (e.g. for buffering), a good guide is to space trees so as to exceed the farthest extent of branch development at maturity. Required shade trees shall generally have a minimum horizontal separation from other required trees of eight feet (8'). In all cases, required trees, whether new or existing, shall be spaced so that they will not interfere with utilities, obstruct vision clearance, or obscure streetlights. (Ord. of Jan. 8, 1970, art. 8, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-610. Prohibited plantings. (1) Utility considerations. As noted in other sections of this chapter, consideration shall always be given to the placement and type of plantings, particularly trees, involved in a landscape design so that such plantings will not interfere with utilities. Specifically, it shall be unlawful for any person to plant the following:

(a) Within any recorded sewer or water easement, any species prone to clogging water or sewer lines with roots, including, but not limited to: Poplar, Box Elder, Silver Maple, American Elm, Catalpa, Siberian Elm, Cotton Wood, Black Walnut, and Weeping Willow.

(b) Within any recorded easement for overhead electric or telephone lines, any species known to reach a mature height greater than twenty feet (20').

(2) Vision clearance considerations. All species shall be located so that they provide for vision clearance. Vision clearance shall be evaluated on both the existing physical characteristics of a species and its anticipated physical dimensions at maturity. (as added by Ord. of Jan. 13, 1986, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-611. Buffering. (1) Intent. Buffer yard requirements are designed to provide physical separation and visual screening between adjacent land uses that are not fully compatible, such as duplexes and service stations. Buffering is also necessary to create privacy, soften glare, filter noise, and modify climatic conditions.

(2) Applicability. Buffer yards are required where development of a new higher impact use, resulting from either a new use of a vacant lot through a change in ownership or tenancy, abuts an existing lower impact use. Impact use classifications are discussed in the subsequent § 11-612 entitled "Classification of buffer areas." In cases where the use classification is uncertain, the planning commission shall make a decision based on the specific situation, character of the use, and the surrounding and/or proposed plan of development. For example, the use of public-owned buildings, which is permitted in all zoning districts, will have very different impacts on abutting properties, depending on the nature of the use. As a result, buffering for these kinds of uses shall be evaluated on the basis of the most similar private sector use and the uses prevalent in the surrounding neighborhood. The Jonesborough Regional Planning Commission and the Jonesborough Board of Mayor and Aldermen may increase buffer yard requirements where it has approval authority.

(3) Appeals. Whenever Class 3 buffers are required, if, at the time of site plan review, it is determined that the required buffer cannot reasonably be expected to provide visual screening within five (5) years of installation, the Jonesborough Regional Planning Commission in conjunction with the building inspector may require a different type of buffer than those specified below. If

applicant disagrees with the findings, he/she may appeal those findings to the board of mayor and aldermen.

(4) Impact classification.

(N) No Impact: (1.) Any use, unless otherwise listed below, which is permitted in R-1 or R-1A zoning district; (2.) Cemeteries; (3.) Golf Courses; (4.) Parks and similar uses.

(L) Low Impact: (1.) Any use, unless otherwise listed below, which is permitted in R-2, R-3, R-4, B-1 zoning districts; (2.) Community and neighborhood recreational facilities and similar uses.

(M) Medium Impact: (1.) Any use, unless otherwise listed below, which is permitted in the B-3 and B-4 zoning districts; (2.) Gasoline service stations; (3.) Convenience stores; (4.) Parking garages; (5.) Auto repair garages and similar uses; and (6.) Mini-warehouses.

(H) High Impact: (1.) Any use only permitted in the M-1 or M-2 zoning districts; and (2.) Any proposed development which would create more than 500 parking spaces.

Proposed Use Classification

Adjoining Use Classification	No Impact (N)	Low Impact (L)	Medium Impact (M)	High Impact (H)
No Impact	None	1	2	3
Low Impact	None	None	1	2
Medium Impact	None	None	None	1
High Impact	None	None	None	None

Example: A new apartment complex (a low impact use) located in an R-3 zoning district will abut an existing single-family residential (a no impact use) area. The developers of the apartment complex (the high impact use) will be responsible for creating and arranging for the maintenance of a Class 1 buffer. However, if this apartment complex were to abut any equal or lower impact use, the developers of the complex would not be responsible for creating any new buffer area.

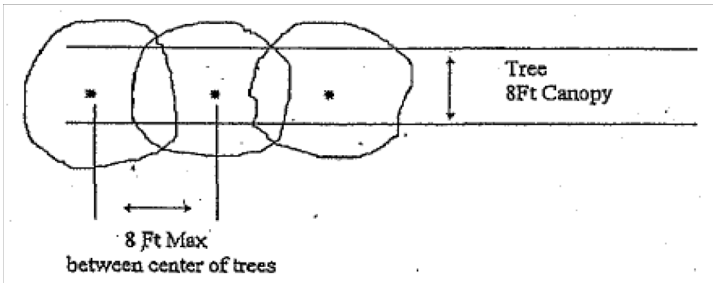
(5) Planting schedule. Plantings approved in the landscape plan in buffer or setback areas along residential or commercial lots adjoining properties not in the development area must be planted prior to the issuance of a certificate of occupancy for the structure constructed. In developments involving multiple structures or phased construction, the required buffering must be planted within or adjoining individual lots before the structure constructed is occupied.

The building inspector has the authority to issue a temporary certificate of occupancy on a lot by lot basis if buffer planting could truly not have been undertaken because of weather or some other legitimate restriction or roadblock. In such case, the developer or owner must sign an agreement stating the date the buffer planting will be completed. Failure to meet the agreement deadline will constitute a violation of the chapter with each day being considered a separate violation. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

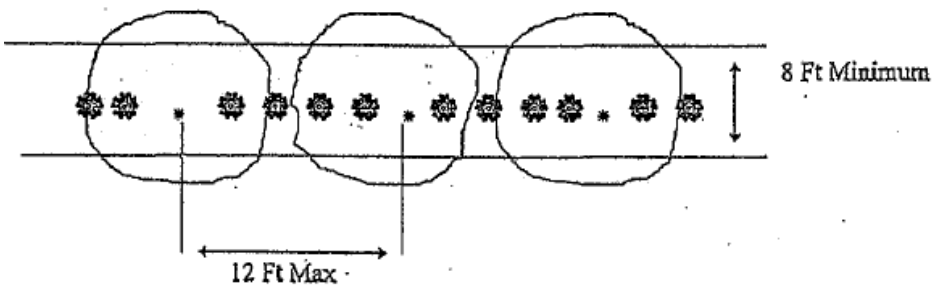
11-612. Classification of buffer areas.

CLASS 1:
A Class 1 buffer area is designed for those abutting uses, which are only mildly incompatible. For example, an apartment complex abutting a duplex. As a result, the buffer requirements associated with the Class 1 buffer are minimal. One (1) of the following three (3) options would be created as an acceptable minimum buffer.

Option A1
One (1) row of evergreen trees spaced no greater than eight feet (8') on center. Species which may require different spacing standards may be approved; provided adequate documentation is submitted to justify a variation.



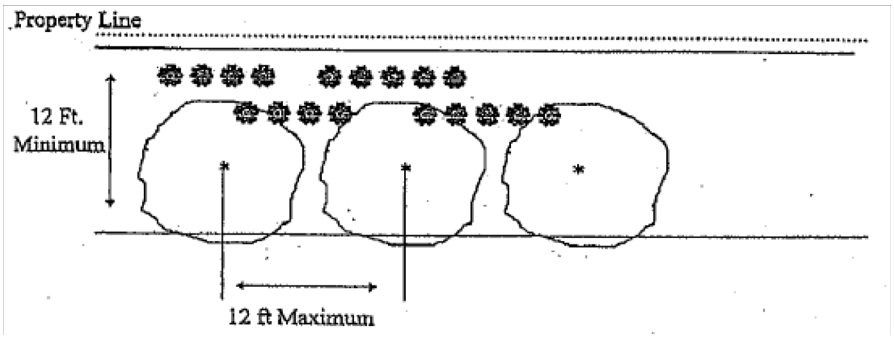
Option B1
One (1) row of evergreen trees with a minimum width spaced no greater than twelve feet (12') on center and a minimum of four (4) shrubs provided per tree.



Option C1
A solid barrier brick or masonry wall or wooden fence or equivalent at least six feet (6') in height. Where a landscaped berm is used and would be periodically mowed, for maintenance purposes, no slope shall exceed twenty-five percent (25%). Berms planted with ground cover and shrubs may be steeper; however, no slope shall exceed fifty percent (50%).

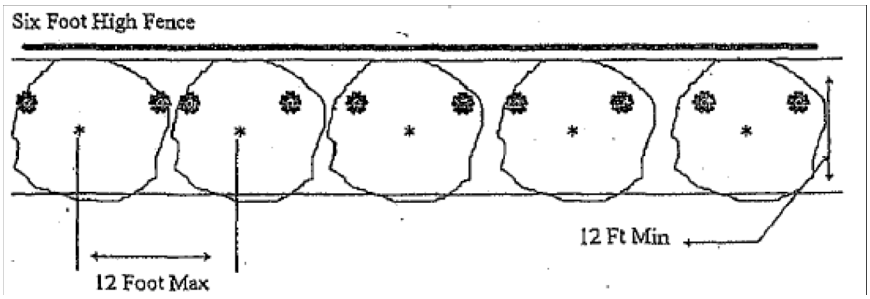
CLASS 2:
Class 2 buffer areas are designed to provide greater shielding than is provided in the Class 1. Class 2 buffers are for incompatible uses, which, because of noise, lighting, smell, etc. require larger buffers. For example, a proposed commercial use abutting an existing single-family neighborhood would require a Class 2 buffer. The Class 2 buffering requirements could be met by completing, at a minimum, one (1) of the following options:

Option A2
A minimum buffer strip width of twelve feet (12') with a row of trees no greater than twelve feet (12') on center and with no less than six (6) shrubs per tree.



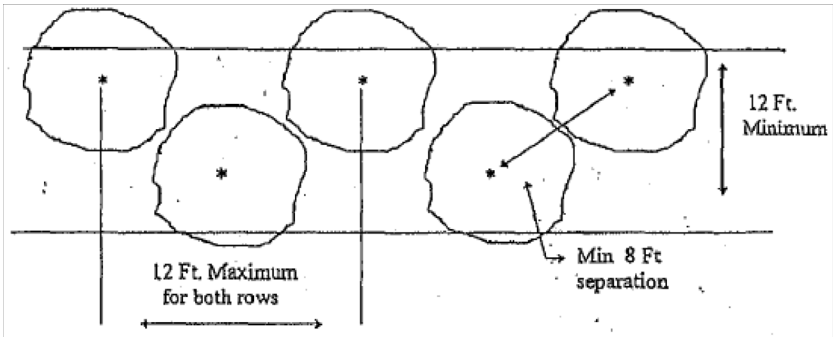
Option B2

A minimum buffer strip width of twelve feet (12'), a minimum six foot (6') high fence, specifically approved by the planning commission, with a row of trees not greater than twelve feet (12') on center and with no less than two (2) shrubs per tree.



Option C2

A minimum buffer strip of twelve feet (12') with a double row of buffer trees, with a minimum row separation of eight feet (8') planted a maximum of twelve feet (12') on center.

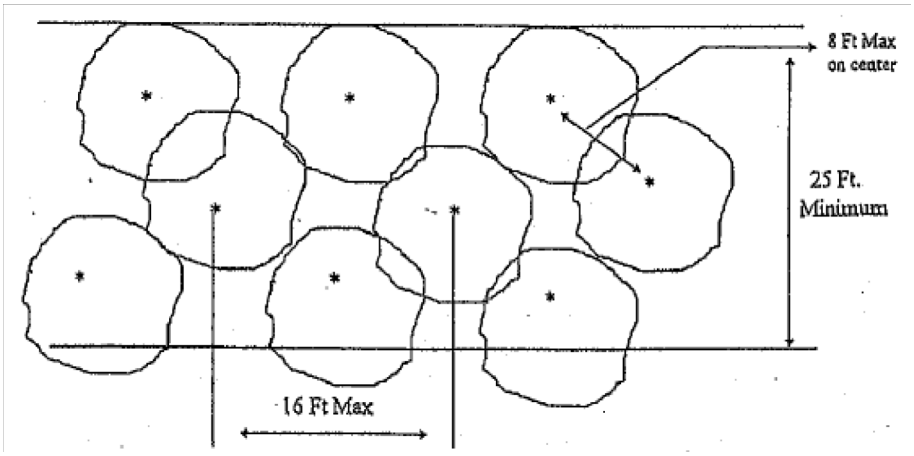


CLASS 3:

The Class 3 buffer is designed for abutting uses which are completely incompatible. For example, a development which will have a high level of noise, light, traffic (industry, large development) abutting a low density residential neighborhood would be required to construct a Class 3 buffer along the abutting property lines. At minimum, Class 3 buffer requirements could be met by adhering to one (1) of the following options:

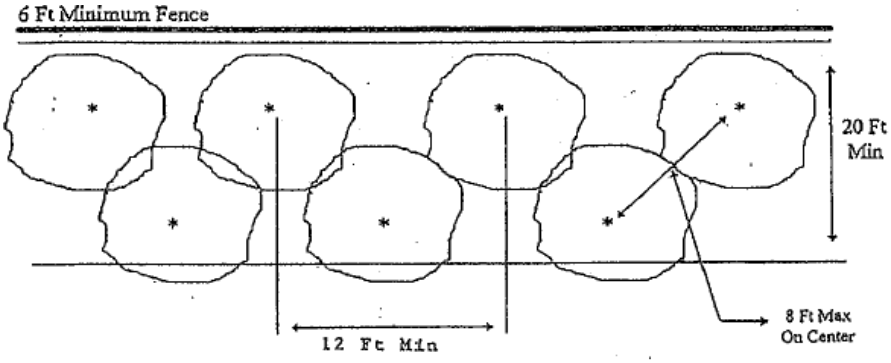
Option A3

A buffer strip with a minimum width of twenty-five feet (25') and with no less than three (3) rows of buffer trees with a minimum row separation of eight feet (8') and spaced no more than sixteen feet (16') on center.



Option B3

A minimum six foot (6') high fence, specifically approved by the planning commission, with two (2) rows of trees with row separation or no more than eight feet (8') and space no less than twelve feet (12') on center. The buffer strip shall be a minimum of twenty feet (20').



(as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-613. Protective screening. (1) Applicability. Excluding the development of individual single-family or two (2) family detached dwelling units, protective screening shall be provided in all zones.

(2) Screening requirements. A protective screen in the form of a masonry wall, wood fence, or opaque landscaping to prevent public view from any street right-of-way (excluding alleys) or adjoining property shall be provided for the following:

(a) Dumpsters.

(b) All mechanical equipment which is larger than five feet (5') by five (5) by four feet (4') high shall be screened. Mechanical units smaller than this shall not require screening if they are located to the side or rear of the building and are not visible from a collector, arterial, or freeway. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-614. Parking lot landscaping. (1) Intent. The purpose of landscaping within and around parking areas is to:

(a) Enhance a development's property value and business opportunities by making it more inviting to customers or visitors.

(b) Provide shade for comfort when walking and after returning to the parked vehicle, as well as to reduce heat build up produced by asphalt surfaces on hot days and to buffer winter winds.

(c) Muffle noise in and around the development and the parking area.

(d) Filter the air by absorbing exhaust gases and giving off pure oxygen.

(e) Protect water quality by modifying the rate of erosion, stormwater runoff into natural and man-made drainage areas.

(f) Break up the mass of pavement associated with parking lots which will provide sense of human scale, slow traffic through the lot, and provide safe pedestrian routes from the building to the automobile.

(g) Minimize the hazard of nighttime headlight glare for drivers and pedestrians.

(2) Applicability. Parking lot landscaping shall be required for all uses which involve the creation of more than twenty (20) off-street parking spaces, either as a new use or by expansion. Where parking spaces are not paved and striped, parking lot landscaping shall be provided, as required by this section, for uses which designate more than four thousand (4,000) square feet of the site for parking purposes. Interior landscaping shall not be required for parking garages or other enclosed parking structures. Such use, however, shall be buffered, as required.

(3) Planting requirements. Where parking lot landscaping is required, one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree shall be planted for every ten (10) parking spaces or, in the case of existing parking lots which are enlarged, every additional ten (10) spaces. Unmarked lots shall have one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree for every two thousand (2,000) square feet of area designated or used on a daily basis for parking.

(4) Standards for trees used specifically in parking lot landscaping. Any trees used for parking lot landscaping shall meet all of the following minimum requirements:

(a) Shall have a clear trunk of at least six feet (6') above finished grade to provide for maximum vision clearance.

(b) Shall be able to thrive in existing soil and should be tolerant of excessive heat, de-icing, salt, and the oils and other chemicals often found in additional volume in parking lot environments.

(c) Shall be species with strong wood which is not prone to breakage in wind or ice storms.

(d) Shall be fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery.

(e) Shall not interfere with either above or below ground utilities.

(f) Shall have pavement cut outs of sufficient size for tree survival and growth (approved by a professional landscaper) when landscaping is placed in a previously developed and paved portion of a site.

(5) Spacing requirements. Trees required for parking lot landscaping may be clustered. However, in no case shall any individual parking space be greater than seventy-five feet (75') from the trunk of a required parking lot tree and no more than one hundred twenty-five feet (125') from two (2) or more required parking lot trees. Distances shall be measured in a straight line from the DBH to the nearest portion of the individual parking space. Parking lot landscaping shall not extend more than fifteen feet (15') beyond any area designated or commonly used for parking. Furthermore, in no case, shall parking lot landscaping be counted toward fulfilling any other landscaping (e.g. buffering) requirements of this chapter.

(6) Interior planting islands – dimensions. Where interior planting islands are used to meet the requirements of this section, each island shall be no less than three feet (3') wide at its greatest point in any dimension. Each planting island shall be bordered by a minimum six inch (6") concrete raised curb or wheel-stop to prevent damage to required landscaping. Where a tree is located within a planting island, there shall be provided at least sixty (60) square feet of pervious land area for each tree within the island. Required trees shall be planted so that the base of the tree, as measured six inches (6") above the ground, shall be at least three and one-half feet (3-1/2') behind the curb or traffic barrier to prevent damage to the tree by auto bumpers. Where an island is parallel to parking spaces, the island shall be at least nine feet (9') wide to allow ample radius for car doors to swing open.

(7) Interior planting islands and parking space dimensions. Where parking spaces abut planting islands, the required length of parking spaces may be reduced by up to two feet (2'). Also, general parking space dimensions may be reduced and an area designated for compact vehicles established. Within this area, parking spaces for ninety degree (90°) angle parking may be reduced to no smaller than seven and one-half feet by fifteen feet (7-1/2 'x 15') in order to free up space needed to meet any of the parking lot landscaping requirements of this

chapter. In all cases, any modifications to parking space dimensions shall be specifically approved by the planning commission. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-615. Frontage landscape areas. (1) Intent. In addition to parking lot landscaping and buffering requirements, plantings shall also be provided along the public road frontage for those applicable situations noted below in order to:

(a) Better define parking areas.

(b) Shield views of parked cars to passing motorists and pedestrians.

(c) Create a pleasing, harmonious appearance along the roadway.

(d) Promote individual property values and pleasing community atmosphere.

(2) Applicability. Any new family, multi-family, commercial or industrial development which will front along the same public street for at least fifty (50) linear feet shall be required to plant frontage landscaping along that frontage. Frontage landscaping shall also be required where an existing lot of record is used by an existing multi-family, commercial, or industrial entity and is combined with adjacent property to create at least fifty feet (50') of additional public road frontage. In which case, frontage landscaping shall be required along that additional frontage.

(3) Requirements. Landscaping along any public road frontage shall be within a strip which is at least ten feet (10') wide. This strip shall include at least one (1) shade tree or evergreen tree or two (2) ornamental trees for each fifty (50) linear feet of public street frontage. Required trees may be clustered or spaced in any manner desirable to the developer and owner; provided such spacing does not interfere with utility line locations in vision clearance. Between required trees, additional landscaping in the form of shrubs, berms, masonry walls or other landscaping or combinations of landscaping acceptable to the planning commission shall be provided. This landscaping shall be at least three feet (3') in height or, in the case of plantings, capable of reaching three feet (3') in height within three (3) years and shall be spaced so that no non-landscaped gaps, excluding driveways and sight line, exist which are greater than six (6) linear feet. Plantings other than trees shall be at least eighteen inches (18") high when planted. A gap greater than six (6) linear feet may be permitted by the planning commission where a clear safety concern is demonstrated or a more natural look would otherwise be conveyed. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-616. Completion bond. In order to ensure the acceptable completion of required landscaping, the building inspector may withhold a certificate of occupancy until required plantings are installed per the approved landscape plans. If a certificate of occupancy is desired and it is not an appropriate time

of year for planting, a completion bond, irrevocable letter of credit, or similar security measure shall be provided by the developer to the Town of Jonesborough. If landscaping is not planted according to the approved landscape plan, the town shall retain the right to cash the bond or security measure, after providing written notification to the developer, in order to complete the landscaping. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-617. Maintenance required. Landscaping plantings that are a requirement of this landscape ordinance shall be maintained on an on-going basis. Such plantings that are required or those that are preserved must be removed and replaced with plant species meeting the landscape ordinance requirements if such plantings are not living within one (1) year after the issuance of a certificate of occupancy or the release of a performance or completion bond. The Jonesborough Tree and Townscape Board may determine that a required landscape planting with tree losses needs to be addressed and may notify the code enforcement officer and/or building inspector of the need to evaluate compliance concerns and possibly issue a notice of corrective action and appropriate timetable. Persons found not to be meeting this maintenance requirement are in violation of this chapter and subject to fine. Each day of violation shall be considered a separate offense. Enforcement shall be the responsibility of the code enforcement officer or the building inspector. The planning commission reserves the right to require a maintenance/replacement bond in an amount up to one hundred ten percent (110%) of the projected cost of the landscaping in an approved landscape plan for a period up to two (2) years in those situations in which the experience with a developer has been such that there is doubt about the commitment of the developer to meet the maintenance requirements of this chapter and a bond is needed to provide the necessary protection. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-618. Continued maintenance requirements. Property owners shall remain responsible for maintaining in a healthy and orderly manner required plantings approved in a landscape plan. Specifically, this shall mean that:

(1) All plant growth in landscaped areas be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic or pedestrian hazard.

(2) All planted areas shall be maintained in a relatively weed-free condition and clear of undergrowth.

(3) All trees, shrubs, ground covers, and other plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease, or other causes.

Also, where man-made materials are used alongside landscaping, such materials shall be maintained in good repair, including, where applicable, periodic painting or finishing. Subsequent building permits may be withheld if, after written notification, landscaping, either required or preserved, is not properly maintained. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2002-04, March 2002, Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-619. Application procedures – new developments. Landscape plans are required as part of the site plan review process. These plans, which shall be acted upon by the Jonesborough Regional Planning Commission, shall be submitted no later than ten (10) business days before the regular meeting date in order to be on the commission's agenda. The tree and townscape board shall review all landscape plans prior to action by the commission and submit comments, recommendations, questions and concerns a minimum of five (5) days before the regular meeting date of the commission. The planning commission will render an acceptance, denial, or conditional acceptance. When plans are approved subject to certain conditions, such conditions may be satisfied by working with the building inspector or other such enforcement officer designated by the board of mayor and aldermen; provided such conditions are classified as minor, as described in the following § 11-620 entitled "Minor changes to approved or conditionally approved plans." (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-620. Minor changes to approved or conditionally approved plans. Minor changes made to approved landscaped plans shall be first approved by the building inspector before any such changes may be made to these original plans. Where such proposed changes would clearly compromise the intent and purpose of this chapter, such changes shall be deemed as major and shall be presented to the Jonesborough Regional Planning Commission for a decision. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-621. Application procedures – expansions of and/or alterations to existing developments. When a use of a property is expanded or changed so as to require landscaping, the applicable provisions of the previous § 11-617 entitled "Maintenance required" and § 11-618 entitled "Continued maintenance requirements" shall apply so that the Town of Jonesborough is provided with a security that the landscaping will be installed and maintained as required in this chapter. Where required landscaping can only be provided in existing paved areas, pavement cutout shall be of sufficient size to ensure the survival of the species. Adequate space shall be provided to permit air and water to the root system. In general, the site should be prepared by digging or rototilling an area twelve inches (12") deep and typically five (5) times the diameter of the planting ball. This area should be back-filled with native soil. (as added by

Ord. #2001-15, Dec. 2001, and replaced by Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-622. Expiration of approved landscape plans. In conjunction with site development requirements, work related to an approved landscape plan shall be initiated within twenty-four (24) months after formal approval by the planning commission. Where such work is not initiated, the plans shall be resubmitted to the planning commission for approval of the proposed landscaping. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-623. Alternative methods of compliance. In cases where a strict interpretation of the requirements of this chapter may by reason of topographical conditions, practical difficulties, or undue hardship, the developer may appear before the planning commission to present an alternative method of compliance. In all cases, such alternative means of complying with the provisions of this chapter shall only be permitted by the planning commission if they remain true to the intent of the landscape ordinance. The Jonesborough Regional Planning Commission would evaluate the petitioner's request for alternative compliance based upon whether one (1) or more of the following conditions clearly would apply:

(1) The development has obvious space limitations or is on an unusually shaped parcel.

(2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible, impractical, or unnecessary.

(3) Due to a change of use of an existing site, the required buffer yard is larger than can be provided.

(4) Obvious safety considerations are involved.

(5) An alternative plan, as demonstrated by a landscape specialist, would clearly improve the environmental quality, traffic safety, and the overall aesthetics of the town to an extent much greater than would be possible by adhering to the provisions of this chapter.

In all cases, if an alternate means of compliance is permitted, such compliance, shall approximate the requirements of this chapter to the greatest extent possible. (as added by Ord. #2009-09, Sept. 2009)

11-624. Conflict. If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict. (as added by Ord. #2009-09, Sept. 2009)

11-625. Severability. If any section, subsection, clause, or phrase of this chapter or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this chapter, or

the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect. (as added by Ord. #2009-09, Sept. 2009)

CHAPTER 7

EXCEPTIONS AND MODIFICATIONS

SECTION

11-701. Lot of record.
11-702. Adjoining and vacant lots of record.
11-703. Front yards.
11-704. Group housing projects.
11-705. Exception on height limits.

11-701. Lot of record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of chapters 5 through 11 of this title, an application may be submitted to the board of zoning appeals for a variance from the terms of chapters 5 through 11 of this title in accordance with variance provisions established herein. Such lot may be used as a building site; provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals. (Ord. of Jan. 8, 1970)

11-702. Adjoining and vacant lots of record. A plat of land consisting of one (1) or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by chapters 5 through 11 of this title, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one (1) ownership shall be subjected to the requirements of chapters 5 through 11 of this title. (Ord. of Jan. 8, 1970)

11-703. Front yards. The front yard requirements of chapters 5 through 11 of this title for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred feet (100') on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots. (Ord. of Jan. 8, 1970)

11-704. Group housing projects. In the case of a group housing project or two (2) or more buildings to be constructed on a plot of ground of at least one (1) acre not subdivided into the customary streets and lots, and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of chapters 5 through 11 of this title to the individual building units in such housing projects, a special exception to the terms of chapters 5 through 11 of this title may be made by the board of

zoning appeals in a manner that will be in harmony with the character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by chapters 5 through 11 of this title in the district in which the project is to be located. However, in no case shall the board of zoning appeals authorize a use prohibited in the district in which the project is located, or a smaller lot area per family than the minimum required in such district, or a greater height, or a larger coverage than the requirements of chapters 5 through 11 of this title permit in such a district. (Ord. of Jan. 8, 1970)

11-705. Exception on height limits. The height limitations of chapters 5 through 11 of this title shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, and aerials. (Ord. of Jan. 8, 1970)

CHAPTER 8

ENFORCEMENT

SECTION
11-801. Enforcing officer.
11-802. Building permit required.
11-803. Issuance of building permit.
11-804. Certificate of occupancy.
11-805. Remedies.

11-801. Enforcing officer. The provisions of chapters 5 through 11 of this title shall be administered and enforced by the municipal building inspector. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of chapters 5 through 11 of this title. (Ord. of Jan. 8, 1970)

11-802. Building permit required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued for such work a building permit including a statement that the plans, specifications, and intended use of such building in all respects conform with the provisions of chapters 5 through 11 of this title. Application for a building permit shall be made to the building inspector. (Ord. of Jan. 8, 1970)

11-803. Issuance of building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location of all buildings to be erected, altered, or moved, and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector. For determining whether the provisions of chapters 5 through 11 of this title are being observed. If the proposed excavation of construction as set forth in the application are in conformity with the provisions of chapters 5 through 11 of this title, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with cause. (Ord. of Jan. 8, 1970)

11-804. Certificate of occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three (3) days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a

certificate of occupancy if the building or structure is found to conform to the provisions of chapters 5 through 11 of this title and the statements made in the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered in its use shall be used until such a certificate of occupancy has been granted. (Ord. of Jan. 8, 1970)

11-805. Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of chapters 5 through 11 of this title, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building. (Ord. of Jan. 8, 1970)

CHAPTER 9

BOARD OF ZONING APPEALS

SECTION
11-901. Creation and appointment.
11-902. Procedure.
11-903. Appeals; how taken.
11-904. Powers.
11-905. Action of the board of zoning appeals.

11-901. Creation and appointment. A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, § 3-7-205, volume 3A, same being section 5, chapter 44 of Public Acts of Tennessee of 1935. The Jonesborough Municipal Planning Commission is hereby designated as the board of zoning appeals and the terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Jonesborough Municipal Planning Commission. (Ord. of Jan. 8, 1970)

11-902. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record. (Ord. of Jan. 8, 1970)

11-903. Appeals; how taken. An appeal to the board of zoning appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the building inspector based in the whole or part on provisions of chapters 5 through 11 of this title. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. (Ord. of Jan. 8,1970)

11-904. Powers. The board of zoning appeals shall have the following powers:

(1) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of chapters 5 through 11 of this title.

(2) Special exceptions. To hear and decide special exceptions to chapters 5 through 11 of this title as set forth in chapter 7.

(3) Variances. To hear and decide applications for variance from the terms of chapters 5 through 11 of this title, but only where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the provisions of chapters 5 through 11 of this title was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of chapters 5 through 11 of this title would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of chapters 5 through 11 of this title. In granting a variance the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of chapters 5 through 11 of this title. Before any variance is granted, it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood. (Ord. of Jan. 8, 1970)

11-905. Action of the board of zoning appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of chapters 5 through 11 of this title, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under chapters 5 through 11 of this title, or to authorize any variance from the terms hereof. (Ord. of Jan. 8, 1970)

CHAPTER 10

HISTORIC ZONING PROVISIONS

SECTION

11-1001. General purposes.
11-1002. Definitions.
11-1003. Creation.
11-1004. Appointment.
11-1005. Membership.
11-1006. Terms of appointment, removal, and vacancies.
11-1007. Election of officers, rules and meetings.
11-1008. Conflict of interest.
11-1009. Powers and duties.
11-1010. Procedures for review of historic zoning commission of permit applications.
11-1011. Enforcement.
11-1012. Designation of historic districts.
11-1013. Appeals.

11-1001. General purposes. The historic district zoning provisions are established in order that appropriate measures may be taken to ensure the preservation of structures of historic value to the Town of Jonesborough pursuant to the authority contained in Tennessee Code Annotated, § 13-7-401. The general intent includes, among others, the following specific purposes:

(1) To effect and accomplish the preservation and protection of historic sites and districts having a special historic, architectural, or cultural interest and value to this town, state, and nation.

(2) To regulate proposed exterior alterations to existing structures and property and the proposed exterior design of new construction within historic districts to ensure compatibility.

(3) To regulate the proposed demolition of structures within historic districts, the loss of which would be detrimental to the public interest.

(4) To promote the educational, cultural, economic, and general welfare of the people and safeguard the town's history and heritage as embodied and reflected in historic districts.

(5) To stabilize and improve property values in historic districts and in the town as a whole.

(6) To foster civic pride in the value of notable accomplishments of the past.

(7) To strengthen the economy of the town.

(8) To protect and enhance the town's attractions to residents, tourists, and visitors, and serve as support and stimulus to business and industry.

(9) To enhance the visual and aesthetic character, diversity, and interest of the town. (Ord. of May 8, 1989)

11-1002. Definitions. (1) "Alteration." Any act that changes the exterior features of a designated property.

(2) "Construction." The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

(3) "Demolition." Any act that destroys the external walls in whole or in part of a structure in a historic district.

(4) "Design guidelines." Standards adopted by the Jonesborough Historic Zoning Commission which preserve the historic, cultural, and architectural character of an area or of a structure.

(5) "Economic hardship." An economic burden imposed upon the owner which is unduly excessive and prevents a realization of a reasonable rate of return upon the value of his property.

(6) "Historic district." An area meeting one (1) or more of the criteria contained in § 11-1012 of this of this chapter.

(7) "Ordinary repair and maintenance." Any work, the purpose and effect of which is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to such deterioration, decay or damage, using the same materials or those materials available which are as close as possible to the original.

(8) "Relocation." Any change of the location of a structure in its present setting or to another setting.

(9) "Structure." A nonmovable work made up of interdependent and interrelated parts in a definite pattern of organization. (Ord. of May 8, 1989)

11-1003. Creation. A Historic Zoning Commission (HZC) is hereby created for the Town of Jonesborough, Tennessee. It shall consist of nine (9) members who shall have been bona fide residents of the area of jurisdiction of the Town of Jonesborough for not less than three (3) years immediately prior to the appointment and who shall continue to be so eligible as long as they serve. (Ord. of May 8, 1989)

11-1004. Appointment. Members of the historic zoning commission shall be appointed by the Mayor of the Town of Jonesborough subject to approval by the Jonesborough Board of Mayor and Aldermen. (Ord. of May 8, 1989)

11-1005. Membership. Membership on the historic zoning commission shall be composed of the following:

(1) One (1) architect who is a member, or meets the membership requirements of the American Institute of Architects.

(2) One (1) member of the Jonesborough Planning Commission at the time of his appointment.

(3) One (1) member representing the local historic organization.

(4) Six (6) members as selected from the community in general. (Ord. of May 8, 1989)

11-1006. Terms of appointment, removal, and vacancies. Appointments to membership on the Jonesborough Historic Zoning Commission shall be arranged so that the terms of no more than two (2) members shall expire each year and their successors shall be appointed in like manner for a term of five (5) years. All members shall serve without compensation and may be removed from membership by the appointing authority after adequate notice and just cause. Any member being so removed shall be provided upon request, a public hearing on the removal decision before the board of mayor and aldermen. Vacancies on the historic zoning commission shall be filled for the unexpired term of those members whose position has become vacant in the manner herein provided for the appointment. Members who miss three (3) consecutive meetings without just cause and adequate notice to the chairman shall be subject to removal by the commission. (Ord. of May 8, 1989)

11-1007. Election of officers, rules and meetings. The historic zoning commission shall elect from its members its own chairman and other officers deemed appropriate to carry out its purpose. The commission shall adopt rules of order and establish regular meeting dates. At least five (5) members of the commission shall constitute a quorum for the transaction of its business. A concurring vote of a majority of any quorum shall constitute final action of the commission of any matter before it. (Ord. of May 8, 1989)

11-1008. Conflict of interest. Any member of the historic zoning commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of the commission shall be disqualified from participating in the discussion, decision, or proceedings of the historic zoning commission in connection therewith. (Ord. of May 8, 1989)

11-1009. Powers and duties. (1) The historic zoning commission shall review applications regarding the creation of historic districts. The review of such applications shall be in accordance with the provisions set forth in § 11-1009 of this chapter. The commission shall furnish to the Jonesborough Board of Aldermen, in writing, its recommendations regarding the creation of any historic district. The district shall be established in accordance with Article XIII of the Jonesborough Zoning Ordinance. The board of aldermen shall review the recommendations of the commission prior to the establishment of such district.

(2) Prior to the establishment of a historic district the historic zoning commission shall adopt for each such proposed district a set of review guidelines, which it will apply in ruling upon the granting or denial of a certificate of appropriateness as provided for in this chapter. Such review guidelines shall be consistent with the purposes of the ordinance and with regulations and standards adopted by the Secretary of the Interior pursuant to the National Historic Preservation Act of 1966, as amended, applicable to the construction, alteration, rehabilitation, relocation, or demolition of any historic structure situated within a historic district.

(3) The historic zoning commission shall review permit applications for the alteration, construction, relocation, or demolition of structures within historic districts.

Such review shall be to ensure that all work undertaken in the historic districts complies with the applicable review guidelines, with primary consideration given to:

(a) The historical or architectural value of the present structure.

(b) The relationship of the exterior architectural features of such structure to the rest of the structure, to the surrounding area, and to character of the district.

(c) The general compatibility of exterior design, arrangement, texture, and materials, proposed to be used.

(d) To any other factor, including aesthetic, which is reasonably related to the purpose of this chapter.

(4) The historic zoning commission may conduct surveys and inventories to identify historically, culturally, and architecturally significant structures, sites, and areas that exemplify the cultural, social, economic, political, architectural, and archeological history of the nation, state, or town.

(5) The historic zoning commission shall testify before all boards and commissions on any matter affecting historically exceptional or significant structures, sites, or areas or historic district.

(6) The historic zoning commission shall inform and educate the citizens of Jonesborough concerning the historical, cultural, architectural, and archaeological heritage of the town. (Ord. of May 8, 1989)

11-1010. <u>Procedures for review of historic zoning commission of permit applications</u>. (1) <u>Permit applications and building inspector</u>. All permit applications for exterior alterations, new construction, relocation, or demolition with the historic districts shall be referred to the historic zoning commission, together with all plans, elevations, or other information as may be necessary to determine the appropriateness of the features to be passed upon by the historic zoning commission by the building inspector.

(2) <u>Historic zoning commission review</u>. The historic zoning commission shall meet within fifteen (15) days after notification by the building inspector of the filing of a complete permit application involving property in the

historic district. At such meeting, the historic zoning commission shall apply the applicable design guidelines for the historic district to determine the appropriateness of the proposal and approve or disapprove the application with or without attached conditions or defer the application.

(3) Approval. Upon approval of an application, the historic zoning commission shall forthwith issue a certificate of appropriateness to the applicant and notify the building inspector of the approval. Upon failure of the historic zoning commission to take final action with thirty (30) days after receipt of an application, the application shall be deemed approved, except when mutual agreement has been made for an extension of the time limit.

(4) Disapproval. In the case of disapproval by the historic zoning commission of any permit application, the historic zoning commission shall state the reasons therefore in a written statement to the applicant, in terms of design, arrangement, texture, color, material, and the like of the property involved. Notice of such disapproval and a copy of the written statement of reasons therefor shall also be transmitted to the building inspector.

(5) Economic hardship in cases of demolition. In cases involving demolition, the historic zoning commission may take into account economic hardship in addition to other review guidelines. The historic zoning commission may, after reasonable notice to the applicant and the public set an application for demolition for public hearing and may consider any or all of the following:

(a) Estimate of the cost of proposed redevelopment, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the historic zoning commission for changes necessary for the issuance of a certificate of appropriateness.

(b) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

(c) Estimated market value of the property in its current condition; after completion of the proposed redevelopment, alteration, demolition, or removal; after any changes recommended by the historic zoning commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use.

(d) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

(e) Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

(f) If the property is income-producing, the annual gross income from the property for the previous two (2) years; itemized operating and maintenance expenses for the previous two (2) years; and depreciation deduction and annual cash flow before and after debt service if any during the same period.

(g) Any other information considered necessary by the historic zoning commission to a determination as to whether the property does or may yield a reasonable return to the owners. (Ord. of May 8, 1989)

11-1011. Enforcement. (1) Enforcing officer. The historic zoning provisions shall be enforced by the town building inspector, who shall have the right to enter upon any premises necessary to carry out his duties in this enforcement.

(2) Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars ($2.00) nor more than fifty dollars ($50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. of May 8, 1989)

11-1012. Designation of historic districts. Criteria. A historic district shall be defined as a geographically definable area which possesses a significant concentration, linkage or continuity of sites, building, structures or objects which are united by past events or aesthetically by plan or physical development, and which meets one (1) or more of the following criteria:

(1) That it is associated with an event which has made a significant contribution to local, state, or national history.

(2) That it includes structures associated with the lives of persons significant to local, state, or national history.

(3) That it contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

(4) That it has yielded or may be likely to yield archeological information important in history or prehistory.

(5) That is listed in the National Register of Historic Places. (Ord. of May 8, 1989)

11-1013. Appeals. Appeals from any decision of the historic zoning commission may be taken to a court of competent jurisdiction as provided for by state law.

Nothing in this chapter shall be interpreted as giving the historic zoning commission any authority to consider, review, examine or control the use of property classified as within a historic district. Use shall be controlled solely by

the zoning controlling such property prior to its designation as a historic district or as may be rezoned by subsequent amendments. (Ord. of May 8, 1989)

CHAPTER 11

AMENDMENT

SECTION
11-1101. Procedure.
11-1102. Approval by planning commission.
11-1103. Introduction of amendment.

11-1101. Procedure. The board of mayor and aldermen may amend the regulations, restrictions, boundaries, or any provision of chapters 5 through 11 of this title. Any member of the board of mayor and aldermen may introduce such amendment, or any official, board, or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to chapters 5 through 11 of this title. (Ord. of Jan. 8, 1970)

11-1102. Approval by planning commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval, or suggestions to the planning commission. If the planning commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of the majority of the entire membership of the board of mayor and aldermen to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said board shall be deemed favorable. (Ord. of Jan. 8, 1970)

11-1103. Introduction of amendment. Upon the introduction of an amendment to chapters 5 through 11 of this title, or upon the receipt of a petition to amend these chapters, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the Town of Jonesborough, Tennessee. Said hearing by the board of mayor and aldermen shall take place not sooner than fifteen (15) days after the date of publication of such notice. (Ord. of Jan. 8, 1970)

CHAPTER 12

BUSINESS AND ADVERTISING SIGNS

SECTION

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11-1201. Purpose and intent. The purpose of this chapter is to create the legal framework to control the erection, location, and maintenance of all exterior signs, billboards, and other advertising structures and devices to protect the public health, safety, morals and general welfare. In addition, the intent of this chapter is as follows:

(1) To encourage good design in the control of the overall image and visual environment of the town.

(2) To protect property values, to enhance the appearance of the business community and to stimulate the economic vitality of Jonesborough.

(3) To ensure that signs are adequate, but not excessive, for the intended purpose of identification or advertisement.

(4) To prohibit the erection of signs in such numbers, sizes, designs, and locations as may create danger to the public by obscuring road signs or by diverting the attention of motorists, or as may produce an environment that encourages visual blight.

(5) To prohibit signs which are likely to create unsafe conditions because of unsound structures or unsuitable locations.

(6) To avoid excessive competition for signs so that permitted signs provide identification and direction while minimizing clutter and unsightliness. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1202. General premises. The general premise for the control of signs within the Town of Jonesborough includes legibility, the effective display of information, the safety of passing traffic, and the coordination of signs with buildings, landscaping and other elements of the visual environment. In particular, signs should be designed and constructed as follows:

(1) For maximum legibility, signs should be designed appropriate to the legal speed of passing traffic.

(2) For size and dimensions, signs should be related to the frontage and setback of the building.

(3) The setback and size of signs should give a fair exposure to all commercial buildings in a given area.

(4) Signs should be integrated with the architecture of the buildings to which they relate, and with the necessary landscaping.

It is further the premises of this chapter that too many signs and too much information on signs creates confusion, contributes to unsafe driving conditions, distracts drivers and conflicts with the intent of § 11-1201 by creating visual clutter and unsightliness. This chapter seeks to encourage signs which avoid excessive information and which significantly contribute to the quality of their surrounding environment. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1203. Minimum standards. The minimum standards set forth in this chapter shall not relieve an owner or tenant of the responsibility for compliance with other local ordinances, codes and regulations. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1204. Definitions. (1) "Abandoned sign." A sign which identifies or advertises a discontinued business, lessor, owner, product or activity, that use having been discontinued for a period of thirty (30) days or more.

(2) "Animated sign." A sign which uses movement or change of lighting or other electrical impulse to depict action or create a special effect or scene.

(3) "Business directional sign or pointer." A sign located off-site which contains the name, indication of direction, and possibly the distance to the establishment or destination.

(4) "Business sign." A sign which primarily directs attention to a business or profession conducted on premises.

(5) "Canopy sign." A sign that is a part of or attached to an awning, canopy or other productive cover over a door, entrance, window, or outdoor service area.

(6) "Commercial signs." Signs advertising, calling attention to, identifying or otherwise aiding in the promotion of the sale of products, goods, services or events, any place or business, subject, person, firm, public performance, article, medicine, merchandise or building.

(7) "Marquee sign." A sign attached to, or made part of, a marquee or other permanent roof structure that projects beyond a building face and is not supported from the ground.

(8) "Off-premises advertising sign." A sign on which advertising or other matter may be displayed promoting goods, services or other things not sold or available upon the site where the sign is located. Off-premise signs may include billboards which are changeable signs.

(9) "Portable signs." Any sign which is or is intended to be affixed or mounted to a frame for the expressed purpose of easy mobility and the intention to be readily relocated and not permanently affixed to the ground or a structure. These signs ordinarily are used for short periods of time for promotional sales, grand openings, etc. "Portable signs" also include sidewalk signs, A-frame signs, and signs attached to or painted on a vehicle or trailer that is parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business. Portable signs are not non-permanent signs associated with gas or service station canopies which are considered window or internal signs

(10) "Projecting sign." A sign which is attached in a plane approximately perpendicular to the surface of the building or structure on which it is located.

(11) "Real estate signs." On-site or directional/pointer portable or permanent signs erected by the owner, or owner's agent, advertising the sale, rental or development of the parcel of land on which the sign is located, or providing direction to a property which is for sale, lease, rent, or development.

(12) "Sign." Any communication device, structure, placard, or fixture using any object, letter, figure, design, symbol, artistic display, trademark, flag or other device intended to call attention to, identify, advertise, or aid in the promoting of the sale of products, goods, services or events, any place, subject, person, firm, business, public performance, article, machine, merchandise, or building. The term "sign" shall not be deemed to include the term "building" or "landscaping" or any architectural embellishment of a building not intended to communicate information.

(13) "Sign area." The entire area within a joined continuous perimeter which encloses the extreme limits of writing, background, representation and other sign information, but the sign area shall not include any structural elements, other than the background, which are not an integral part of the

display. For the purpose of computing the allowable sign area of a double-faced sign, only one (1) face shall be considered.

(a) Wall sign: When the sign is composed of individual letters or symbols using a wall as a background with no added decoration, the total sign area shall be the sum of the areas of the smallest rectangles which close each individual letter or symbol. Otherwise, the wall sign area will be determined by the smallest geometric shape that encloses all borders, graphics and letters as a complete sign.

(b) Freestanding: The sign area shall be the area of the smallest rectangle or geometric shape that encloses the sign and its cabinet, but not the foundation, structural or architectural features.

(14) "Sign height." The height of a sign shall be computed as the difference between the average ground level at the base of the sign and the elevation of the uppermost extremity of the sign or sign support structure.

(15) "Temporary sign." A portable sign. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2010-09, June 2010)

11-1205. Permit required. (1) No sign, except for those signs listed in § 11-1206 below, shall be painted, constructed, erected, remodeled, relocated, or expanded until a sign permit has been obtained in accordance with the provisions of this chapter. When a sign permit has been issued, it shall also be unlawful to substantially modify a sign without prior approval of the building inspector. A written record of such approval shall be entered upon the original permit application and maintained in the permit record. Signs placed in the historic district and zone are also subject to the approval of the historic zoning commission through the commission's advertising standards and guidelines.

(2) No permit for any sign shall be issued unless the sign complies with all requirements of this chapter, and with the requirements of the Southern Building Code as amended for outdoor displays, and signs, including portable signs.

(3) A sign or sign structure which is replaced to show a new trade name, a new design, different color or other changes in shape, location or size shall require a permit.

(4) All commercial and business signs, outdoor signs, and subdivision entry signs for single-family and multi-family developments must be approved by the planning commission before a sign permit is issued, with the exception of signs within the historic district or zone. Signs within the historic district or zone shall be reviewed and approved by the historic zoning commission. Sign permit applications shall include the information specified in § 11-1216 of this chapter. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1206. Permit exceptions. (1) The following operations shall not be considered as creating a sign, and therefore shall not require an additional sign permit:

(a) The changing of the advertised copy or message on an approved sign which is specifically designed for the use of replaceable copy; and

(b) Painting, cleaning, and other normal maintenance and repair of a conforming sign unless a structural change is made.

(2) The following enumerated signs shall be exempt from the requirements of this chapter:

(a) Signs of any constituted governmental body such as traffic signs and signals, legal notices, railroad crossing signs, danger signs, and other temporary, emergency, and non-advertising signs.

(b) Memorial tablets or signs, historic markers, corner stones, or a building name and date of erection when constructed of incombustible material.

(c) Signs required to be maintained by law such as governmental order, rule, or regulation with a total surface area not to exceed ten (10) square feet.

(d) Flags, emblems, or insignias of any constituted governmental body, religious groups, civic organizations and service clubs.

(e) Small signs displayed for the direction or convenience of the public including signs which identify restrooms, location of public telephones, freight entrances, parking or the like with a total area not to exceed four (4) square feet. Horizontal directional signs flush with paved areas are exempt from these standards.

(f) Seasonal displays and decorations not advertising a product, services, or entertainment.

(g) Freestanding signs or signs attached to fences at approximate eye level that are no larger than four (4) square feet warning the public against hunting, fishing, trespassing, dangerous animals, swimming, or designating private property, private drive, ATM, etc.

(h) Any information or directional signs erected by a public agency to give directions and distances to commercial facilities or points of interest for the convenience of the traveling public but the signs may not give direction to any specific business establishment.

(i) Temporary window signs, except as specified in § 11-1205(3), internally mounted, that do not exceed twenty five percent (25%) of the area of the window or any glass door to which they are attached. All window signs shall be in conformance with all applicable safety, building and electrical codes.

(j) Permanent window signs except as specified in § 11-1205(3), internally mounted, that do not exceed ten percent (10%) of the area of

the window or any glass door to which they are attached. All permanent window signs shall be in conformance with all applicable safety, building, and electrical codes. Permanent window signs within the historic district and zone shall be subject to approval by the historic zoning commission through the commission's advertising standards and guidelines.

(3) Except where specifically qualified below, no permit shall be required for any of the following temporary signs:

(a) Official public notices. Official notices or advertisement, required by the direction of any public or court officer in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments; provided, that all such signs shall be removed not later than ten (10) days after the last day of the period for which they are required to be displayed.

(b) Political signs. Political preference or campaign signs for federal, state, and local elections not exceeding six (6) square feet in residential zones except R-4 and including B-2 (Central Business District) or not exceeding thirty-two (32) square feet in R-4 all other non-residential zones may be erected or posted on any private lot, but not within the public right-of-way. Such signs must contain no commercial message in order to be exempt. Each sign must be removed within seven (7) days after the announced results of that nomination, election or referendum. Political signs larger than six (6) square feet displayed on or upon vehicles may not be located in public parking lots or spaces after 6:00 P.M. to dawn.

(c) Non-profit temporary signs. Temporary signs not exceeding six (6) square feet in area announcing a campaign, drive or event of a civic, philanthropic, education or religious organization; provided, that the sponsoring organization shall ensure proper and prompt removal of such sign. Such sign may be maintained for a period not to exceed one (1) month, and must be removed within seven (7) days of the end of a campaign or when the event has taken place.

(d) Real estate signs. Temporary, freestanding, real estate signs may be erected without a permit for any property that is offered for sale, lease or rent under the following conditions:

(i) Signs may be two (2) faced with the maximum total sign surface per sign face as follows:

Residential zones except R-4, and including B-2 (central business) - six (6) square feet.

R-4 zone - thirty-two (32) square feet.

All other business and manufacturing zones thirty-two (32) square feet.

(ii) Real estate signs must be erected on private property and not on public right-of-way and shall not create any sight visibility hazard to motorists.

(iii) Such signs shall be removed within seven (7) days of the sale, rental or lease.

(iv) Directional or pointer real estate signs may be used off-site from the property for sale, lease or rental, however, such signs may not be in the public right-of-way and must be used in reasonable numbers. Directional signs must be removed on the same schedule as other real estate signs.

(v) One (1) sign is allowed per lot road frontage, however, property in excess of three (3) acres may include up to two (2) additional signs; provided such signs are spaced at five hundred foot (500') intervals.

(vi) Properties for sale, lease, rent that do not have visual access from the nearest street or roadway, but can be seen from streets further away, may have signs larger than six (6) square feet or thirty-two (32) square feet as specified in § 11-1206(3)(d)(i); provided justification is presented and approval is issued in the form of a variance by the Jonesborough Planning Commission/Board of Zoning Appeals.

(e) Construction signs. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction prior, to a maximum area of twenty-five (25) square feet for each sign. The sign shall be confined to the site of the construction, and shall be removed within fourteen (14) days following completion of construction. Construction signs representing state and federal funding agencies that have certain size and wording requirements as a condition of funding are exempt from the above construction sign requirements.

(f) Temporary or portable signs. Temporary or portable signs may be exempt from permitting; provided they meet the following conditions:

(i) Temporary signs advertising specials, new products, or other such special conditions related to the business shall be posted for a period not to exceed sixty (60) days. Signs that only display the name of a business or a logo, or other such symbol are not allowed and thus not exempted from permit requirements.

(ii) Only one (1) temporary sign shall be displayed at a given time for a single business, and in locations with multiple tenants only two (2) signs total may be displayed per lot at the same time.

(iii) Except as designated in title 11, chapter 2, §§ 11-1206(3)(f)(vii) and 11-1206(3)(f)(ix) below, the total sign area per sign shall not exceed nine (9) square feet per side.

(iv) Signs may not be placed on public sidewalks or rights-of-way except in the B-2 Zone or as authorized in special event applications approved by the board of mayor and aldermen. No temporary sign authorized may be placed to cause a site distance problem, obstruction or a hazard.

(v) Temporary signs must be set back a minimum of ten feet (10') from the public right-of-way.

(vi) Temporary or portable signs must be located on the same premises or lot in which the business activity is taking place.

(vii) Portable A-boards or "sandwich board" signs may only be displayed during business hours. These signs must be located on-premises or in the B-2 zone or other zone within the historic district in which a heritage occupation is approved, said sign shall be immediately in front of the business being promoted, Portable A-boards or "sandwich boards" within the historic district zone must be approved in advance by the historic zoning commission. Portable A-boards or "sandwich board" signs must be placed so they do not block pedestrian or vehicular traffic and where they do not create a safety hazard.

(viii) Business owners shall notify the building inspector of any placement of a portable sign upon their premises in order that the allowable time period can be observed and enforced.

(ix) Temporary or portable signs advertising a grand opening or going out of business, not exceeding thirty-two (32) square feet, may be displayed for said purposes only one (1) time in a twelve (12) month period for a period not to exceed sixty (60) days. Signs located more than one hundred feet (100') or more from the edge of the public street pavement can be larger upon approval of the board of zoning appeals.

(x) Temporary signs meeting the sixty (60) days criteria must be taken down by the next morning the day immediately after the sixty (60) days has expired.

(xi) Any existing nonconforming temporary or portable sign shall be discontinued or be brought into compliance no later than thirty (30) consecutive calendar days from the effective date of this chapter. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, Ord. #2006-03, May 2006, and amended by Ord. #2010-09, June 2010)

11-1207. Prohibited signs. The following signs are prohibited from being erected or maintained in any zoning district and in any area of the Town of Jonesborough:

(1) Any lighting arrangement by exposed tubing or strings of lights, outlining any portion of a building or structure or affixed to any ornamental feature thereof.

(2) Any portable sign, except as provided for in § 11-1206(3)(f).

(3) Any sign that violates any provision of any law or regulation of the State of Tennessee or United States relative to outdoor advertising.

(4) Any sign that violates any provision of the Southern Standard Building Code unless specifically authorized otherwise in this chapter.

(5) Any sign so located so as to obscure all or any portion of a sign or traffic signal erected by a governmental authority.

(6) Any sign of which all or any part is in motion by means of the atmosphere, including fluttering, or rotating.

(7) Any animated sign that by movement or by other method or manner of illumination, flashes on or off, winks, strobes, blinks with varying light or color intensity, except signs meeting the following criteria:

(a) The sign is located on property in a B-3 or B-6 zone.

(b) If the sign is an electronic variable message sign, the sign owner must submit an executed agreement stating that the business understands the associated conditions in which this type of sign can be used and agrees to comply with them. The executed agreement must be posted in clear view at the electronic message board control panel, so it is easily seen by any control panel operator.

(c) The sign does not attempt or appear to attempt to direct the movement of traffic, or which interferes with, imitates, or resembles any official traffic sign, signal or device.

(d) Duration of message on-time: on-time duration of an acceptable commercial electronic variable message sign should be fifteen (15) seconds for a sign panel with three (3) lines, and having twenty (20) characters per line; however, regardless of the number of lines and characters, the total length of the information cycle or the on-time period must be no less than six (6) seconds.

(e) If the sign face changes the size must have changing text; signs that display information cycles without changing text are prohibited.

(f) The sign does not have a running message with continuous movement. The message displayed must be complete and unchangeable within the no less than six (6) second display, and shall not continuous onto the next text display.

(g) If the light intensity of the sign changes, it only occurs in two (2) "on" and "off" cycles during a twenty-four (24) hour period based on daylight and darkness.

(h) The brightness of the sign lumination does not cause disability glare or discomfort glare as defined in the town's lighting ordinance.

(i) The sign changes message, electronically or mechanically, by the appearance of complete substitution or replacement of one (1) display by another, and in which the appearance of movement during the message display, or of messages appearing to move across the display face, is not present. Use of animated, chasing, scintillating, traveling, moving, or dissolving displays in which part or all of a message displayed on the sign appears to be moving is prohibited. Messages that appear to be written on or erased off the display face one (1) letter or one (1) word at a time or piecemeal, rather than all at once, are prohibited.

(j) In order for the message to be conveyed to the motorist quickly, clearly and unambiguously, the sign character size, spacing, and typeface must be appropriate based on the associated speed limit, sign location, and environmental factors.

(8) Any sign that obstructs any window, door, fire escape, stairway, ladder, opening or access, intended for light, air, ingress to or egress from any building.

(9) Any sign that is attached to a tree.

(10) Any sign that is attached to a utility pole, whether on public or private property, except utility warning announcements, such traffic and safety related signs as deemed necessary by the public safety director, and signage, banners, flags, etc. approved on street lamps by the board of mayor and aldermen or designated committee or other such body created by the board of mayor and aldermen.

(11) Any sign, which by reason of its location, position, size, shape or color may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic control signs, signal or device, or where it may interfere with, mislead or confuse traffic, and is deemed to be a safety hazard by the building inspector, public safety director, or the public works director.

No sign shall use the words "stop," "slow," "caution," "yield," "danger," "warning," or "go" when such sign may be confused with a traffic control sign used or displayed by a public authority.

(12) Inflatable signs, including helium or other gas which is contained within the sign, or sign parts, at a pressure greater than atmospheric pressure making it able to float.

(13) Any off-premises signs, except real estate directional signs, political signs, outdoor signs, public service/civic event signs, garage sale signs, and off-premises directional signs authorized in § 11-1206(3) of this chapter.

(14) Any commercial sign supporting any business, etc. as defined in § 11-1206(3) "commercial signs" of this chapter, that is not within the Town of Jonesborough except as may be permitted through billboards.

(15) Any sign that exhibits statements, words or pictures of a racial, offensive, or obscene nature.

(16) Any sign that has sign copy that misrepresents the business use or activities being carried out on the property represented by said sign.

(17) Abandoned or dilapidated signs.

(18) Roof signs, or signs extending beyond the main roof line, unless specifically approved by the Jonesborough Planning Commission, and the Jonesborough Historic Zoning Commission if within the historic zone.

(19) Any commercial sign located in a residential district not otherwise provided for in this chapter.

(20) Any sign that has not been permitted as required, or whose permit has been revoked.

(21) Signs which are made structurally sound by guy wires or unsightly bracing.

(22) Signs which contain reflective material, except as approved in § 11-1206.

(23) Signs which advertise an activity, business, product or service not conducted on the premises upon which the signs is located, except as specifically permitted through this chapter. (Ord. of Oct. 9, 1989, as replaced by Ord. #2006-03, May 2006, and amended by Ord. #2009-02, March 2009, and Ord. #2012-14, Nov. 2012)

11-1208. Sign locations. Commercial signs shall be located on the property in which they are intended to promote. No commercial signs shall be on public right-of-way except as permitted by the State of Tennessee or the Jonesborough Planning Commission. In addition, the following limitations apply.

(1) No signs on medians or public right-of-way. No political, real estate, civic, or other non-public exempt signage shall be posted or erected on highway medians, islands, or along public right-of-way. Jonesborough Parks and Recreation, appropriate work or construction signage, and other town signage approved by the board of mayor and aldermen may be located on medians; provided the signage meets all state guidelines and all safety requirements. Unapproved signs in the public right-of-way will be removed by either the public works department, public safety department or building inspector.

(2) Spacing. All permanent freestanding signs on any premises shall be spaced at minimum two hundred foot (200') intervals along each public way that views the premises, unless otherwise provided for in this chapter. Electronic variable message signs must be located a minimum of two hundred feet (200') apart. The planning commission may consider waiving the two hundred foot (200') interval for freestanding signs including electronic message boards when a written request for a waiver is submitted along with a justification based on lot limitations that cannot be changed, topography, preserving important vegetation, etc.; provided that additional landscaping is also submitted that can buffer any negative effects of freestanding signage in close proximity.

(3) Sight distance triangle. All entrance signs and freestanding signs located near the corners of an intersection shall be located outside of the "sight

distance triangle." The "sight distance triangle" is a triangle shaped area that is measured at a distance of thirty-five feet (35') running parallel to each intersecting street or roadway and the line connecting them to form a triangle. This area shall be free of any permanent or temporary signs that may inhibit clear sight visibility from motorist. Any exceptions must be approved by the state department of transportation and/or the Jonesborough Planning Commission.

(4) Setback. All permanent signs shall be setback at least seven and one-half feet (7-1/2') from the edge of the street or public right-of-way, unless otherwise specified in this chapter. No permanent sign shall be located within a public utility or drainage easement, unless authorized by the Jonesborough Planning Commission and the utilities involved. Temporary signs shall be located at least ten feet (10') from the edge of the street or public right-of-way.

(5) Authority for placement. No sign and/or sign structure shall be erected on any property without the express permission of the property owner or his agent. Upon request of the building inspector, such permission granted must be made in writing. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2012-14, Nov. 2012)

11-1209. Illumination/electrical compliance. Illuminated signs or signs with electricity shall adhere to the following provisions and restrictions in addition to those stated in the sign requirements by zone.

(1) The light from any illuminated sign shall be so shaded, shielded or directed that the light illuminated only the sign and does not become a safety hazard or a visual nuisance.

(2) No sign shall have blinking, flashing, strobe, or fluttering lights or other illuminating devices which have a changing light intensity, or brightness or color. Beacon lights are not permitted.

(3) No colored lights, (especially red, yellow and green) shall be used at any location in any manner so as to be confused with or construed as a traffic signal device.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public streets and thoroughfares.

(5) Illuminated signs must meet any requirements applicable in the Jonesborough Lighting Ordinance.

(6) All signs having electrical wiring shall bear a seal of approval of Underwriters Laboratory (UL) or are other nationally recognized electrical testing laboratory. Each sign with electrical wiring must have an outside disconnect. Where appropriate, label numbers shall be registered with the building inspector at the time a sign permit is issued. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1210. Structural requirements. All signs shall meet the structural requirements for same as set forth in the Southern Standard Building Code. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1211. Inspection, maintenance and removal. (1) Signs for which a permit is required shall be inspected annually by the building inspector for compliance with this and other ordinances of Jonesborough.

(2) All signs and components thereof shall be kept in good repair and in a safe, clean, neat and attractive condition.

(3) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any provisions of the Southern Standard Building Code, the owner, person, or firm maintaining the sign shall, upon written notice of the building inspector, within not more than ten (10) days make such sign conform to the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with, the building inspector may remove such sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code.

(4) The building inspector or public safety director may remove a sign immediately and without written notice if in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.

(5) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises and has not been so conducted for a period of one (1) year. If the owner or lessee fails to remove it, the building inspector shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the building inspector may remove the sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1212. Off-premises advertising signs. Off-premises advertising signs, also commonly referred to as billboards or poster panels, but can also be any sign which advertises products, businesses, or services primarily not connected with the site or building on which the sign is located, shall be prohibited in all zones, with the following exceptions.

(1) Directional signs specifically permitted within the historic district and upon approval of the historic zoning commission.

(2) Directional signs indicating the existence of a commercial, recreational, organizational or institutional establishment not located on the parcel in which the sign is located on the following conditions:

(a) The sign is requested by the board of mayor and aldermen after a statement of finding that the placement of a directional sign is in the best interest of the general public; or.

(b) The need and placement of the sign meets the following criteria:

(i) There is a sight-line obstruction or distance issue that makes it difficult for the traveling public on arterial routes to know where the commercial or public/private facility is located.

(ii) The commercial or public/private facility has enough of a projected or verified customer/visitor base that possible safety issues could occur due to motorists u-turning or trying to make turns at wrong locations.

(iii) The presence of the off-premises sign can be shown to relieve confusion of motorists, traffic congestion, etc, and thus be shown to improve driver safety.

(iv) There is a suitable sign location for the sign needed.

(v) If the sign location is on private property that there is an approval of the property owner.

(vi) Only one (1) sign, with two (2) faces, if needed, is erected at one (1) location with the sign face being no more than nine (9) square feet per individual establishment or twenty-five (25) square feet for multiple establishments.

(vii) Small monument signs are used when appropriate or if requested short posted directional signs that are justified to the planning commission.

(viii) The sign and structure are approved by the Jonesborough Planning Commission. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2011-09, April 2011)

11-1213. Nonconforming signs. Signs that do not conform to the intent and premises of this chapter at the time of passage are encouraged to voluntarily comply with the regulations and guidelines established. This chapter has been generated as a result of a community vision process in which residents have determined how they want Jonesborough to look and develop.

The continued existence of signs which are nonconforming is inconsistent with the stated intent and premise of this chapter as outlined in § 11-1201. It is the desire of the board of mayor and aldermen, in recognition of the importance to the quality of life of Jonesborough residents, that nonconforming usage of signs not tend to flourish indefinitely and in perpetuity. The following regulations related to nonconforming signs are hereby established to the extent allowable under state law:

(1) Any legal nonconforming non-temporary signs located in a residential zone shall be discontinued or brought into compliance pursuant to this chapter not later than five (5) years from the date of this chapter.

(2) Any legally nonconforming temporary sign shall be discontinued or be brought into compliance within thirty (30) days.

(3) Commercial signs which do not conform to the regulations and restrictions prescribed in this chapter, but which were erected in accordance with all applicable regulations in effect at the time of their erection many remain in place only so long as the existing use which they advertise or identify remains, except that the advertising copy on a lawfully nonconforming marquee sign or off-premises billboard sign may be changed.

(a) No nonconforming commercial sign, except for billboards, may be structurally altered or changed in any manner, nor shall it be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign, unless the sign change or restructuring results in the sign now being in conformity with the applicable regulations of this chapter.

(b) If a nonconforming use ceases to be a lawful nonconforming use under Tennessee State Law or through the Jonesborough Zoning Ordinance, then the sign which advertises or identifies that use shall also become an unlawful sign and subject to abatement/removal.

(c) Nonconforming or "grandfathered" billboard signs that were erected in accordance with all applicable regulations at the time of their erection may be replaced with changeable message signs, hereby defined as an off-premises advertising device that displays a series of messages at intervals by means of digital display or mechanical rotating panels, under the following conditions:

(i) Changeable message signs must replace one (1) or more existing billboard signs, and it is determined that the end product of the change more closely meets the intent of current sign regulations.

(ii) The location of the changeable message sign must be the exact same location of a billboard removed, or be a location determined to be more suitable and approved by the planning commission.

(iii) Digital display is defined as a series of messages at intervals through electronic coding of lights or light emitting diodes or other means that does not require mechanical rotating panels.

(iv) Changeable message signs may be back-to-back only if the billboard sign replaced is back-to-back, however, there may be only one (1) sign face in any direction.

(v) The sign face may not be larger than the billboard being replaced, and the planning commission may require a

smaller off-premises changeable message sign than the sign replaced as a condition of approval.

(vi) Each digital display image or message shall remain static and non-moving for a minimum of eight (8) seconds with a maximum time between images of two (2) seconds. Images changed must be displayed all together without intermittent transitions regardless how short.

(vii) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(viii) The changeable message sign shall not be configured to resemble a warning, danger signal, official signage used to control traffic or to cause a driver to mistake the digital sign for a warning or danger signal.

(ix) The display period must be non-moving or static, and video, continuous scrolling message, animation and flashing messages are expressly prohibited.

(x) The digital display must be designed and equipped to freeze the image in one (1) position or immediately discontinue the display altogether if a malfunction occurs.

(xi) No digital display may display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver or result in a nuisance to the driver.

(xii) No digital display may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic signal, sign, or device.

(xiii) The maximum brightness initially established per day is seven thousand five hundred (7,500) nits (six million nine hundred sixty-seven thousand seven hundred twenty-eight (6,967,728) candela square feet) and per night is seven hundred fifty (750) nits (sixty-nine thousand six hundred seventy-seven (69,677) candela square feet); however, the planning commission is authorized to modify the maximum sign brightness for digital display signs if it is deemed to be in the public interest, and:

(A) The sign owner must be provided a seven (7) day notice in advance of the meeting the planning commission may consider a change in brightness limits.

(B) Initial approval of a permit to replace an existing billboard with a digital display sign shall be on the condition that the planning commission may change the brightness limits if it is deemed to be in the public interest, and any existing digital display sign shall not be "grandfathered."

(xiv) All changeable message signs must be equipped with both a dimmer control and a photocell that automatically adjusts the display's intensity according to natural ambient light conditions.

(xv) A new sign permit is required to convert an existing nonconforming but properly qualified billboard into a changeable message sign.

(xvi) Any request to convert an existing billboard to a changeable message sign must be approved by the planning commission.

(xvii) Any changeable message sign found to be out of compliance with a standard of this section must be shut off immediately.

(4) A nonconforming sign shall not be enlarged, expanded, extended or structurally altered so as to create additional nonconformity or to increase the extent of the existing nonconformity. This section shall not be construed to prohibit the changing of the copy area; provided that there is no increase in the copy area or height, or change in the sign area framework; and provided that no portion of the sign is located within the right-of-way or under any electrical line.

(5) Nonconforming signs shall be brought into compliance once a change in use of the premises occurs.

(6) No nonconforming sign shall be moved on the same lot nor to another lot, in whole or in part, without the approval of the Jonesborough Planning Commission, and unless the moving will relocate the sign into a zoning district or any area in which it will conform, or unless the reconstructed or repaired sign conforms to the provisions of this chapter.

(7) In the event that a nonconforming sign is destroyed or is allowed to become dilapidated to the extent of fifty percent (50%) or more of the current cost to replace the sign, including labor and materials, the sign shall not be reconstructed or repaired, and the owner of the sign shall be required to remove the sign, regardless of other provisions contained in this chapter, unless the reconstructed or repaired sign conforms to the provisions of this chapter.

(8) A nonconforming sign or sign structure shall be removed if the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the building appraised value.

(9) A sign displaying no message for ninety (90) days or signs on property in which an activity, business product or service which has not been produced, conducted or sold for a period of ninety (90) days on the premises which the sign is located shall be considered abandoned and all rights to maintain the sign shall be terminated.

(10) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign, and for sign structure through routine

maintenance defined as repairing, repainting or refinishing the surface of the existing sign face or sign structure so as to maintain the appearance.

(11) Under no circumstances shall a sign deemed by the building inspector to be illegal at the time of the adoption of this chapter, be considered a legally nonconforming sign.

(12) Any sign given a variance by the Jonesborough Board of Zoning Appeals that is not in compliance with regulations subsequently adopted in this chapter shall be considered in conformity; provided that the area(s) of non-conformity resulting from changes in this chapter are the same areas allowed under the variance previously provided. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2011-01, Jan. 2011)

11-1214. Sign regulations by district. The following regulations shall apply to all signs which require a permit by the provisions of this chapter. The regulations as set forth shall be qualified by those additional provisions which may be presented elsewhere in this chapter for particular uses.

(1) Residential districts. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are located on unused lands or are accessory to residential uses in all residential districts.

(a) One (1) sign not exceeding four (4) square feet in area shall be permitted for each dwelling unit with the exception of subsections (1)(b), (1)(c), (1)(g), (1)(h), and (1)(i) below. Such sign shall indicate only the name of the occupant, address, or home occupation.

(b) In addition to the signs permitted by subsection (1)(a) above, a thirty-two (32) square foot sign may be permitted to identify the name of a single-family development at the major entrance thereto. Sign areas larger than thirty-two (32) square feet must be approved by the board of zoning appeals.

(c) One (1) non-permanent sign not exceeding thirty-two (32) square feet in area, advertising a subdivision development and located therein adjacent to any street bounding such development may be permitted; provided that no such sign shall be displayed for a longer time than two (2) years and shall require a permit from the building inspector. At the end of any two-year period, a renewal of the permit shall be obtained from the building inspector. One (1) off-site sign not exceeding thirty-two (32) square feet may be permitted subject to the conditions and approvals established in § 11-1212 above.

(d) Permitted signs may be located anywhere on the premises beyond the seven and one-half foot (7-1/2') setback.

(e) Freestanding signs shall be ground mounted and shall extend no more than eight feet (8') above the ground including any part of the supporting members.

(f) Illumination, if used, shall be what is known as white and not colored light, and shall not be blinking, fluctuating, or moving. Light rays shall shine only on the sign or upon the property where the sign is located and shall not spill over the property line in any direction except by indirect reflection.

(g) Multi-family dwellings may have one (1) or more signs per building with a total permitted sign area of twelve (12) square feet per building which shall indicate only the name and address of the building. In addition, one (1) thirty-two (32) square foot sign may be permitted for each street frontage to identify the name, address, phone number and owner of the development.

(h) One (1) sign not exceeding thirty-two (32) square feet in area shall be allowed for each public-owned building and use, public and private schools and churches located in a residential zone. Upon approval of the Jonesborough Planning Commission, and if appropriate to the State of Tennessee, off-site signage to public buildings, schools, and churches may be permitted.

(2) R-4 districts. There shall be no more than one (1) freestanding sign per principal building which must be a monument or ground mounted sign with a sign face of no more than thirty-two (32) square feet per face and all signs shall not project above buildings nor have flashing or moving illumination. Although signs must be monument or ground mounted signs, the total sign and support structure height and distance of the sign face from the ground will be determined by the planning commission based on the following criteria:

(a) Topography of the property,

(b) Location of plant material including trees.

(c) Location of entrance.

(d) Distance sign is located from front property line and from arterial road surface.

A sign schematic showing dimensions, as well as a location map showing distance from pavement, associate landscaping, and other features, as well as the principal building(s) must be submitted to the planning commission for approval.

(3) Commercial districts. In addition to the regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are accessory to commercial use located in any commercial district.

(a) Building mounted signs may be reviewed and approved based on one (1) of two (2) methods. Option one (1) requires that information related to building signage is prepared by an architect, building designer or other appropriate person familiar with the building design that includes one (1) or more sign areas designated as part of the building design. The Jonesborough Regional Planning Commission is granted the authority to create and use established standards and

guidelines for submitting and evaluating signage schematics presented for option one (1) review.

(i) The option one (1) process results in approval of sign areas that can be on any side of a building.

(ii) Approval of any sign area is based on criteria established in the option one (1) signage standards and guidelines, and is not limited otherwise by a set amount for sign square footage.

(iii) Content within the sign area approved by the planning commission through the option one (1) process can change upon obtaining a sign permit from the building inspector but without having to go to the planning commission if the new sign content fits within the sign area previously approved by the planning commission.

(iv) The planning commission in reviewing option one (1) building signage submittals shall use the option one (1) building signage standards and guidelines adopted and amended by the planning commission that will include at least the following guidelines:

(A) The information submitted must include building elevations showing all full sides of the building in which signs are to be located.

(B) The submittal must clearly show the sign area(s) in which building signage will be located on each exterior area of the building, including the dimensions of the sign area. To the extent possible, the sign content intended to be used should be shown within the sign area, however, the content can change as long as it remains within the approved sign area(s).

(C) The sign locations must be identified with some measurement from an identifiable fixed location.

(D) The sign area(s) will be evaluated using the following criteria:

(1) The proportion of the sign area size in relationship to the size of the building wall exterior.

(2) The scale of the sign(s) and its relationship to the architectural elements of the exterior building wall including windows, doors, cornices and other ornamental elements, columns, possible landscape features, etc.

(3) The size of the sign area in relationship to the reasonable viewing distance so that the sign content can be legible and readable.

(4) The sign area surface being free from obstruction and allowing an appropriately sized building sign. (Sign won't cover vents, fans, conduit, downspout, etc.)

(5) The amount of signage requested and whether there is unnecessary redundancy.

(b) Building mounted signs may also be reviewed and evaluated through option two (2). Option two (2) building mounted signs on buildings housing one (1) or more tenants shall not exceed a total of one (1) square foot of sign area on the building for each linear foot of building frontage occupied by each tenant. In addition, one (1) square foot of building signage will be allowed on any other building wall that can be seen from the street frontage for each linear foot of the corresponding building wall length. Large retailers with one (1) or more internal business components such as video, pharmacy, care, bakery, etc. intending to advertise on the external building wall, will be considered as one (1) or more tenants within the building complex, and total sign area combined will be based on the linear feet of building frontage. Building mounted signs submitted under option two (2) may be approved by the building inspector without being reviewed by the planning commission if the building sign requested meets the option two (2) requirements. Any variance request must be submitted to the planning commission and will only be considered under the option one (1) guidelines. The building inspector shall have the authority to refer any building sign request to the planning commission for any reason.

(c) Building mounted signs may be located anywhere on the surface of the building and may project not more than one foot (1') therefrom.

(d) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof.

(e) Signs may be on the vertical face of a marquee but shall not project below the lower edge of the marquee. The bottom of the marquee sign shall be no less than nine feet (9') above a walkway or grade at any point. No part of the sign shall extend above the vertical marquee face, and no such sign shall exceed seven feet (7') in height.

(f) Freestanding signs and shall be ground mounted-monument signs, and shall not exceed one-hundred (100) square feet of sign area. Freestanding signs shall be set back a minimum of seven and one-half feet (7-1/2') from all property lines and shall not exceed a height of fourteen feet (14') above ground level including supports. Multiple tenant commercial buildings with seven (7) or more tenants may apply for an additional eleven (11) square feet of sign area for each additional tenant above six (6) up to a maximum of one hundred forty-four (144) square feet. The board of zoning appeals may consider variances to sign height,

sign area, and sign number requirements; provided justification is submitted on one (1) or more of the following considerations:

(i) The topography around the sign creates visibility issues.

(ii) Existing landscaping creates visibility issues and it is the desire to maintain existing trees and shrubs.

(iii) Visibility, ingress and egress can be better served with more than one (1) sign.

(iv) There is a substantial sign setback.

(v) The site layout of the development lends itself to justifying a larger sign.

Freestanding signs in historic overlay zones are governed by the advertising standards and guidelines of the Jonesborough Historic Zoning Commission.

(g) Projecting signs may be used in lieu of a freestanding sign. When projecting signs are used, the following conditions apply:

(i) All projecting signs shall have a minimum clearance of eight feet (8') above a walkway and fifteen feet (15') above a driveway or alley.

(ii) One (1) projecting sign is permitted for each ground floor business, or at the entrance to upper level businesses.

(iii) Area: The sign may have a maximum of ten (10) square feet per business, or where multiple businesses are signed, the total square footage of all signs in one (1) grouping may not exceed ten (10) square feet.

(iv) Location: On a single story building, no projecting sign shall be higher than fifteen feet (15') nor shall such sign project above the cornice line of its supporting building or above the parapet wall or mansard wall to which it is attached. On a multi-story building, no projecting sign shall extend above the lower sill line of the second floor windows. No projecting sign shall interfere with any part of a window or other architectural opening.

(v) No projecting sign shall extend more than four feet (4') from the wall of its supporting structure.

Projecting signs within a historic overlay zone are governed by the advertising standards and guidelines of the historic zoning commission.

(h) Signs shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or other entertainment available on the same property where the sign is located, except as may be specifically permitted in other sections of this chapter.

(i) One (1) building mounted sign per street frontage per tenant is permitted. One (1) freestanding sign per street frontage per building is permitted. These signs must be located on the premises for the

products or services they primarily advertise and they shall be subject to § 11-1211.

(j) Service stations may be allowed one (1) additional square foot of sign on each gasoline pump to identify the specific product dispensed.

(k) Business direction signs are permitted in the historic district which advertises businesses located off Boone Street and Main Street; provided the following requirements are satisfied.

(i) Only one (1) such sign per business shall be permitted. In addition, a single sign mounted at the top of a pole may be permitted to identify the group of businesses whose signs are mounted on the pole.

(ii) Only one (1) pole for the purpose of mounting such signs pointing in the same direction off Boone or Main Street shall be permitted per intersection.

(iii) All such signs at any one (1) intersection must be mounted on the same pole.

(iv) Poles on which such signs are mounted must serve no other purpose nor have any other types of signs mounted on them, but may include public facility signs such as parking and restrooms.

(v) All poles for such purpose shall, at the time of their installation, be consistent in structure and design with poles used by the Town of Jonesborough for public directional signs in the central business district.

(vi) In order to facilitate easy recognition and identification, each sign may be unique to the business being identified and may include the characteristic colors, lettering and or logos of the particular business.

(vii) The size and location of each pole and the position and size of each sign must be approved by the historic zoning commission, the chief of police and the town administrator.

(viii) All signs and poles must be consistent with the sign ordinance and the standards and guidelines of the historic zoning commission and must be approved by the historic zoning commission.

(ix) Any such signs and poles shall be at no cost to the Town of Jonesborough.

(x) Signs designating an area shall not exceed three (3) square feet.

(xi) Signs designating an individual business shall not exceed two (2) square feet.

(4) Historic districts. Signs in H-1 and H-2 overlay zones are governed by the advertising standards and guidelines adopted for these zones and

administered by the Jonesborough Historic Zoning Commission. When conflict may occur between the historic zoning commission's standards and guidelines and the sign regulations established in this chapter, the standard and guidelines of the historic zoning commission shall govern.

(5) Manufacturing district. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all property developed for industrial uses in areas zoned for manufacturing.

(a) Building mounted signs shall not exceed a total area of two (2) square feet for each linear foot of building frontage to a maximum total area of all signs permitted for any establishment of three hundred (300) square feet. Where the frontage is on more than one (1) street, only the sign area computed with the frontage of that street shall face that street.

(b) Signs may be flat against the wall and located anywhere on the surface of the building. Signs may be projecting signs only if the do not create any safety hazards.

(c) All signs shall have a minimum clearance of nine feet (9') above a walkway and fifteen feet (15') above a driveway or alley.

(d) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof; except where there is a structural or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on and limited to the face of that part and extend not more than five feet (5') above the highest point of the roof; but in no event shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) One (1) freestanding or ground-supported sign may be erected for each industrial use. Such sign shall have a maximum area of one hundred seventy-five (175) square feet, have a minimum setback of five feet (5'), and not exceed fourteen feet (14') in height including any supports.

(f) Signs allowed by this section shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or entertainment available on the same property where the sign is located. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2012-13, Nov. 2012)

11-1215. Sign permit requirements. (1) Commercial signs, subdivision signs, and signs for multi-family developments shall be approved by the Jonesborough Planning Commission prior to a permit being issued.

(2) Except as otherwise provided herein, no sign shall be erected, altered, or relocated without a permit issued by the building inspector.

(3) Any sign erected under permit shall indicate the number of that permit; and the name of the person, firm or corporation owning, erecting, maintaining or operating such sign.

(4) It shall be the responsibility of the company, firm, or individual constructing or planning any sign to obtain any required permit.

(5) Commercial establishments using temporary or portable commercial signs must notify the building inspector in advance of the size being displayed. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1216. Permit application. The application for a sign permit shall be filed with the building inspector on forms furnished by the town. The application shall contain the location of the sign structure, the name and address of the sign owner and drawings showing the design of the sign and such other pertinent information as the building inspector or the planning commission may require to ensure compliance with the ordinance of the town. Any sign located within the Town of Jonesborough shall be in conformity with the uses existing in the neighborhood where it is proposed to be located. The Jonesborough Planning Commission shall determine any questions concerning the conformity of a sign. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1217. Fees for sign permits. (1) A nominal fee to cover administrative cost shall be charged for each sign permit issued.

(2) The building inspector or representative may charge double sign permit fees for any permit application that is not obtained prior to the beginning of sign construction at its intended location. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1218. Nullification. (1) A sign permit shall become null and void if the work for which the permit was issued has not begun within a period of six (6) months after the date of the permit.

(2) In the event that construction cannot be commenced within the six (6) month period, an application for extension of an additional six (6) month period may be made to the building inspector. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1219. Variances/appeals. (1) Except for instances relating to signs or sign structure located or proposed to be located on or over public property, any person who has been ordered by the building inspector to incur an expense for the alteration or removal of a sign may appeal to the board of zoning appeals. The board of zoning appeals may permit the alteration or permit the sign to remain; provided it finds that the sign is safe, necessary to the occupation which it represents, and does not conflict with the intent of this chapter.

(2) In cases where an individual enterprise located within a shopping center would be so situated as not to have frontage visible from a street, the board of zoning appeals may grant sign area for such uses to be erected at entrances. In granting such a variance, the board of zoning appeals shall limit the areas of such signs to that which in its opinion is reasonably in keeping with the provisions of this chapter.

(3) The board of zoning appeals shall hear and decide appeals where it is alleged by the permit applicant that there is an error in any permit, decision, determination, or refusal made by the building inspector or other administrative official in carrying out or enforcing any provision of this chapter.

(4) The board of zoning appeals shall hear and decide applications for variance by reason of exceptional topographical conditions, practical difficulties, or undue hardships caused by strict application of the ordinance for additional signs, sign area, sign height and sign location. (as added by Ord. #2006-03, May 2006)

11-1220. Violations/existing signage. Existing signage that is in violation of this chapter and was in violation of the previous sign ordinance shall continue to be in violation and shall have no implied right to exist in its urgent status as result of it being located in its current site for any extended period of time with no enforcement action. (as added by Ord. #2006-03, May 2006)

11-1221. Parties responsible for violations. The building inspector may determine the lessor of a property in which a sign is located that is not in compliance with this chapter; or the property owner in which the illegal sign is located; or both to be in violation. (as added by Ord. #2006-03, May 2006)

11-1222. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by Ord. #2006-03, May 2006)

11-1223. Historic district. In addition to regulations which exist for signs in residential, commercial and manufacturing districts any sign proposed to be located in the Jonesborough Historic District shall also be subject to the regulations adopted by the Jonesborough Historic Zoning Commission. Any signs proposed to be located in the Jonesborough Historic District shall be reviewed and approved by the Jonesborough Historic Zoning Commission prior to the issuance of a building permit. (as added by Ord. #2006-03, May 2006)

CHAPTER 13

MOBILE HOMES

SECTION
11-1301. Mobile home dwellings.

11-1301. Mobile home dwellings. Mobile home dwellings may be placed on a lot, except within the historic zoning district, subject to the following conditions:

(1) The mobile home has the metal plate certifying that it meets minimum standards of the department of housing and urban development. Uncertified mobile homes, recreational vehicles, and campers may not be placed on a lot for long or short term occupancy.

(2) The mobile home is anchored in accordance with state law.

(3) That the space between the bottom of the mobile home and the ground shall be enclosed with a permanent material.

(4) A mobile home may temporarily be placed on a lot with a site built or a modular dwelling unit if the lot could be subdivided and meet the requirements of the subdivision regulations. The lot would have to be subdivided if the mobile home was to be permanently located on the lot. Recorded deeds may be used to subdivide the property if the land is to be sold to another person or a recorded plat may be used if the original owner is going to retain ownership of the property. All plats must be approved by the planning commission. (Ord. of Jan. 13, 1986)

CHAPTER 14

HOME OCCUPATIONS

SECTION
11-1401. Customary incidental home occupations.

11-1401. Customary incidental home occupations. A home occupation shall be clearly incidental to and subordinate to the principle residential use. The home occupation shall be carried on by residents of the dwelling plus one (1) additional person may be employed who is not a resident of the dwelling. The home occupation may not display or create outside the building any external evidence of the home occupation except for an unanimated, non-illuminated flat or window sign having an area of not more than two hundred (200) square inches. The home occupation shall not utilize more than one-third (1/3) of the area of the principle building not to exceed five hundred (500) square feet. The parking and traffic generated by the home occupation shall not be significantly different than that generated by the normal single-family dwelling unit. No sounds, dust, or odors shall be created that are not compatible with single-family residences. (Ord. of January 13, 1986)

CHAPTER 15

DISH ANTENNAS AND TELECOMMUNICATION TOWERS

SECTION
11-1501. Dish antennas - definition.
11-1502. Dish antennas - permitted use.
15-1503. Telecommunication towers.

11-1501. Dish antennas - definition. "Dish antenna." Antennas designed to receive satellite communication for digital data, video signals, and private voice satellites. These antennas shall be considered accessory uses. (Ord. of Jan. 17, 1989, as amended by Ord. #2015-5, May 2015 ***Ch12_04-09-18***)

11-1502. Dish antennas - permitted use. (1) No dish antenna which exceeds twenty inches (20") in diameter may be used on a residential or business property in the historic district for the purpose of receiving entertainment television transmissions intended for general public use. Dish antennas may be used on business properties in the district for the purpose of communicating digital data, private voice telephone services and television video transmission specifically intended for education and training and are assigned:

(a) The dish is assigned to a single user.

(b) A site plan is reviewed and approved by the Jonesborough Historic Zoning Commission.

(c) The structure shall be placed in the rear or side yard at the discretion of the historic zoning commission and no closer than ten feet (10') from any property line.

(d) The structure shall not exceed eight feet (8') in height nor six feet (6') in diameter.

(e) The structure shall be adequately landscaped to provide screening from public view.

(2) Dish antennas of less than twenty inches (20") in diameter may be used; provided that:

(a) The dish is solely for private use.

(b) A sight plan is reviewed and approved by historic zoning commission.

(c) The structure be appropriately situated so that it is not in public view. (Ord. of Jan 17, 1989, as replaced by Ord. #94-05, April 1994, and amended by Ord. #2015-05, May 2015 ***Ch12_04-09-18***)

11-1503. Telecommunication towers. The regulations set forth in this section shall apply to wireless transmission facilities including telecommunication towers and antennas within the corporate limits of Jonesborough. The purpose of the regulations within this section is to minimize

the potential negative impact to surrounding properties of telecommunication tower and facilities installation through application of reasonable technical and developmental standards for the installation and placement of wireless transmission facilities.

(1) Permit required. A telecommunications tower permit is required from the Jonesborough Building Inspector on all tower and antenna installations and reconstructions within the corporate limits of Jonesborough. The telecommunications tower permit shall not be issued until the telecommunications tower application and site plan have been approved by the Jonesborough Planning Commission.

(2) Definitions. (a) "Tower" means the base of any wireless transmission facility, including, but not limited to, a self-supporting tower or monopole, together with any antenna or other appurtenances.

(b) "Wireless transmission facilities" means building, cabinets structures and facilities including generating and switching stations, repeaters, antennas, transmitters, receivers, towers and all other buildings and structures relating to low-power mobile voice transmission, data transmission, video transmission, radio transmission, or wireless transmission.

(c) "Collocation" means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency or other type signals for communication purposes.

(3) Pre-existing towers or antennas. Shall not be required to meet the requirements of this section other than §§ 11-1503(4)(g) and 11-1503(4)(h).

(4) Standards. (a) The use of land for wireless transmission facilities shall be permitted in the residential, business and manufacturing districts, with the exception of the historic districts as detailed in § 11-1503(4)(b), and under conditions established in this chapter.

(b) No towers shall be allowed in the H-1 and H-2 historic districts.

(c) Towers must be located on one (1) parcel or tract.

(d) Signs - signs on towers or antennas shall be prohibited, except those required by regulatory agencies.

(e) Lighting - towers shall not be lighted unless as required by the Federal Aviation Administration. Documentation from the FAA detailing the requirement for lighting shall be submitted with the site plan application to the planning commission.

(f) Ingress and egress - towers or wireless transmission facilities must be located on a tract that has access to a town street or county road.

(g) Buildings and support equipment - all buildings and signal equipment must comply with Jonesborough's building codes and be permitted and inspected by the Jonesborough Building Inspector.

(h) Tower construction must be in compliance with ANSI standards, any Federal Aviation Administration standards, any state and/or local building codes, and the applicable standards for tower and antennas published by the Electronic Industries Association, as may be revised. The applicant must show certification from a registered structural engineer that the tower's structural design meets the minimum standards outlined above.

(5) Setbacks. The setback shall be the total height of the tower and any associated antennas plus ten feet (10') in every direction on the single tract of land from each side of the tower base. No buildings or structures except associated facilities or appurtenances shall be located in the setback area. Applicant must show steps taken to prevent any development within the setback area while tower is in the location proposed.

(6) Security fencing. Towers and related appurtenances such as guy wires/anchors shall be enclosed by security fencing no less than six feet (6') in height, and shall also be equipped with appropriate anti-climbing devices.

(7) Buffering. (a) Tower facilities shall be landscaped with plant material on all sides that effectively screens the view of the tower compound and ground-based equipment or facilities from nearby residences, using a Class 1 buffer in the Jonesborough Landscape Ordinance as a minimum guideline.

(b) Existing mature growth and natural landforms on the site shall be preserved to the maximum extent practicable. In some cases, upon approval by the tree and townscape board, existing natural growth around the property perimeter may be accepted as effective screening or buffering.

(8) NEPA and SHPO initial approval. Prior to an application and required site plan being submitted to the Jonesborough Regional Planning Commission for approval, the applicant must be able to document that the proposed site and tower development has met the requirements of the National Environmental Policy Act and the National Historic Preservation Act (state historic preservation officer approval). Antenna installation under a collocation agreement that meets the exemptions of the FCC from having to obtain NEPA and SHPO approval, may submit a permit application to the Jonesborough Regional Planning Commission along with verification of their review exemption.

(9) Site plan for towers and associated appurtenances. A site plan for any proposed telecommunication tower development must be submitted to and approved by the Jonesborough Regional Planning Commission prior to the issuance of any building, grading, or telecommunication tower permit. Site plans must include the following components:

(a) An accurate description of the property boundary including distances along property lines.

(b) The location of a tower with distances from each side of the tower base to the adjoining property line, and location of any improvements within the property in which the tower is proposed to be located.

(c) Certification of the height of tower designed and any associated antennas or appurtenances, along with cross sections, and elevations.

(d) A complete fall zone based on the height of the tower and any associated antennas plus ten feet (10').

(e) A layout and square footage of any buildings or equipment associated with the tower, and the location of any appurtenances.

(f) Documentation of scale and verification that the site plan has been prepared by a licensed civil engineer and/or a Tennessee state certified surveyor, and that the survey information and distances are accurate and all easements and rights-of-way are shown.

(g) Ingress and egress from a public street, including drives and parking.

(h) Name(s) of owner(s) of the lot, and names of adjoining property owners.

(i) Name(s) of the applicant seeking approval.

(j) Zoning of site and all adjoining tracts.

(k) Landscape buffer areas.

(l) Any changes in topography.

(m) Drainage plan and water quality measures limiting run-off and minimizing pollutant run-off.

(n) Documentation showing ownership applicant of tract or an existing lease, or an active option to purchase or lease the tract on which the telecommunications facilities are intended to be located.

(o) A vicinity map showing proposed facility location within Jonesborough's corporate limits.

(p) Location of other area towers, at least within one-half (1/2) mile of proposed site.

(10) Height justification/broadcast area. Application must provide documentation showing why the site proposed has been selected and why the site is better than any other alternative site. Also, the applicant must justify the height of the tower proposed and how that height is necessary to provide the broadcast area desired and why this broadcast (geographic service) area generated by the tower is needed.

(11) Tower capacity - initial user. A new communication tower shall be constructed to accommodate a minimum of three (3) primary cellular/personal communication systems/antenna, and must be available for collocation to more than one (1) commercial communications company. A tower shall have a minimum of one (1) user immediately after construction of the tower is completed. The name, address and contact information of the initial user of the

tower upon completion must be provided by the applicant, along with the capacity for communication antennas.

(12) Shared use. The applicant's proposal for a new wireless transmission facility shall not be approved unless it can be documented by the applicant that the equipment planned for the proposed tower cannot be reasonably accommodated on an existing tower. An affidavit must be submitted attesting to the fact that the applicant has made a diligent, but unsuccessful, effort to obtain permission to install or collocate the applicant's telecommunications facilities on useable towers or antenna support structures within a reasonable distance (minimum one-half (1/2) mile) of the proposed tower site. Justification for an additional tower can include, but is not limited to, one (1) or more of the following:

(a) Exceeding the structural capacity of the existing tower(s).

(b) Causing radio frequency interference.

(c) Failing to effectively provide the coverage area needed (geographic service requirements).

(d) An existing tower has no space on which the equipment can be placed and also function properly.

Note: If structural capacity of an existing tower or failure to provide the intended coverage area is used as justification for a new tower, the applicant must provide evidence from an engineer that the proposed tower antenna(s) or telecommunication facilities cannot be installed or collocated on another person's tower or usable antenna support structure within a reasonable distance (minimum of one-half (1/2) mile) of the proposed tower site.

A description of the new tower's capacity, including the number and type of antennas that it can accommodate must be submitted with the application information.

An affidavit of commitment must be submitted by the applicant to leave excess space on the tower for other potential users at prevailing rates and standard terms. The affidavit shall commit the tower owner(s) and its successors in interest to this obligation.

(13) Termination of use. All telecommunication towers and related equipment shall be removed when the facility has not been in service for more than six (6) months. The legal responsibility of such removal shall be specified on the site plan, along with a detail of the tower removal process. The last tower owner and/or property owner will be notified by the town's code enforcement officer, after the tower has not been used by any company for six (6) months, that the tower is considered abandoned and removal must be initiated. The appropriate party shall be given one hundred twenty (120) days to remove the abandoned tower, and failure to remove the tower in the specified time period is a violation of this chapter.

(14) Right of access for inspection. Language authorizing inspection of the proposed telecommunication facilities by town and other designated regulatory personnel shall be specified on the site plan.

(15) Violations and penalty. Violations of this chapter shall be subject to the maximum fines allowed by state law. Each and every day of violation may be considered a separate offense. [as added by Ord. #2015-05, May 2015 ***Ch12_04-09-18***]

CHAPTER 16

DEMOLITION BY NEGLECT

SECTION

11-1601. Minimum maintenance requirements to prevent demolition by neglect.
11-1602. Characteristics of deterioration.
11-1603. Implementation of minimum maintenance requirements.
11-1604. Initiating citation process.
11-1605. Citation hearing/public meeting.
11-1606. Enforcement.
11-1607. Unreasonable economic hardship.
11-1608. Penalties.

11-1601. Minimum maintenance requirements to prevent demolition by neglect. Any designated landmark within the Jonesborough town limits; or any building or structure within the historic zone must be kept in good repair and must be maintained at minimum maintenance requirements that will prevent one (1) or more of the characteristics of deterioration set forth in § 11-1602 of this chapter. The presence of one (1) or more of these characteristics, which left unrepaired could lead to deterioration of the building's structural frame or architectural integrity, shall constitute a failure to meet minimum maintenance requirements and is thus determined to be demolition by neglect. (as added by Ord. #93-02, June 1993)

11-1602. Characteristics of deterioration. Demolition by neglect is determined to be deterioration of a building(s) and/or surrounding environment, and the failure to meet minimum maintenance requirements characterized by one (1) or more of the following:

(1) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property;

(2) Foundations that are deteriorated or inadequate;

(3) Floor supports that are defective or deteriorated or floor supports insufficient to carry imposed loads with safety;

(4) Members of walls, or other vertical supports that split, lean, list or buckle due to defective material or deterioration;

(5) Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;

(6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration;

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration;

(9) Important defining architectural features that are substantially deteriorated;

(10) Those buildings with the peeling of external paint, rotting, holes, and other forms of decay;

(11) Unsafe electrical and/or mechanical conditions;

(12) Exterior plaster or mortar that is deteriorated or crumbling;

(13) Those buildings with a lack of maintenance of the surrounding environment that is associated with the defining historical character of the structures; e.g. fences, gates, sidewalks, steps, signs, accessory structures, and landscaping; and

(14) Any fault, defect, or condition in the building which renders the same structurally unsafe, not properly water tight, or likely to lead to the deterioration characteristics listed above. (as added by Ord. #93-02, June 1993)

11-1603. Implementation of minimum maintenance requirements.

(1) Identification of the failure to meet minimum maintenance requirements in a building as listed in § 11-1602 above may be made by a member of the historic zoning commission, commission staff, or the building inspector. This initial identification may be made by routine inspection of the district or neighborhood or by referral from someone in the area.

(2) Information related to initial identification of demolition by neglect is presented to the historic zoning commission. Upon determination of the historic zoning commission that the landmark or the building within the historic zone may not meet minimum maintenance requirements, the historic zoning commission may request, upon majority vote, that the building inspector inspect the structure. The chairman of the historic zoning commission shall send a letter by certified mail to inform the property owner of the action by the commission, the impending inspection by the building inspector, and the opportunity he or she will have at the next meeting to address the commission about the preliminary identification of demolition by neglect and the inspection report.

(3) The building inspector or his or her designee will present the inspection findings at the next commission meeting. The report shall detail any defects which constitute, in the inspectors opinion, a failure to meet the minimum maintenance requirements.

(4) If the determination is made by the building inspector that the structure does not meet the minimum maintenance requirements, the historic zoning commission, upon a majority vote, may initiate the citation process as specified in § 11-1604. At this time, the historic zoning commission must prepare an application for a certificate of appropriateness specifying corrective work that is required according to the commission's standards and guidelines, and indicating the time schedule that will be necessary to complete the

minimum maintenance improvements. The time schedule mandated by the historic zoning commission will be a minimum of thirty (30) days unless the building inspector determines that failure to immediately meet minimum maintenance requirements creates an imminent threat to the safety of the public or the property. (as added by Ord. #93-02, June 1993)

11-1604. Initiating citation process. (1) A citation is formal notification to the property owner that the historic zoning commission has determined that demolition by neglect is occurring on the property because minimum maintenance requirements have not been met; and notification of the owner that correction of the defects must be undertaken.

(2) After action by the historic zoning commission authorizing the citation process, the building inspector or his/her designee will attempt to notify the property owner(s) of the determination of demolition by neglect by the commission. The notification shall state the reasons why the structure is found to be in violation of the minimum maintenance requirements. In addition the notification shall include a copy of the application for a certificate of appropriateness listing the work required according to the commission's standards and guidelines. The notification shall be in writing and shall be delivered by certified mail, registered mail, or such other method that shows the receipt of the notification by the owner. Notice of the date, time, and location of a citation hearing/public meeting in which the owner may address the commission concerning said violations will also be provided.

(3) If after two (2) attempts, the owner fails to receive the notification regarding the determination of demolition by neglect, the building inspector or designee will post the building/property with a notice of the violation. Posting will be in a conspicuous, protected place on the property. The posted notice will include the fact that the building is in violation of minimum maintenance standards and the date, time, and location of the citation hearing/public meeting held on the violations by the historic zoning commission.

(4) The owner(s) of the building/property determined to be in violation of the minimum maintenance standards shall be notified of said violations as specified in §§ 11-1604(2) or 11-1604(3) above a minimum of thirty (30) days in advance of the meeting on the issue held by the commission.

(5) After receiving notification of the determination of demolition by neglect, the owner(s) may initiate corrective action before the citation hearing/public meeting is held. Before work is begun however, the owner(s) must complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit. (as added by Ord. #93-02, June 1993)

11-1605. Citation hearing/public meeting. (1) If by the designated citation hearing/public meeting, the owner(s) of the property has not completed the corrective work specified in the notification of violation and the application

for a certificate of appropriateness, the historic zoning commission will restate the violations of the minimum maintenance requirements related to the property. The owner(s) will then be provided with the opportunity to address the concerns of the commission, to provide evidence, and to show cause why a citation should not be issued regarding the alleged violations.

(2) After reviewing the violations of the minimum maintenance requirements and providing the opportunity for the owner(s) to address the concerns; the historic zoning commission may consider a motion to recognize the condition of the building/property and the owner(s) failure to correct defects. Upon a majority vote of the commission, the building inspector may be authorized to issue a citation to the owner(s) for failure to comply with the minimum maintenance requirements of this chapter. This citation will include the following requirements:

(a) A list of the minimum maintenance requirements still in violation.

(b) Any remaining or amended requirements detailed in the application for a certificate of appropriateness initially issued through § 11-1603(4) above.

(c) A written schedule of the time allotted to correct the violations.

(d) A statement detailing the requirement to complete and return within ten (10) days the application for a certificate of appropriateness, and to obtain a certificate of appropriateness, and a building permit.

(3) The determination of the historic zoning commission related to the citation and certificate of appropriateness as specified in § 11-1605(2) above shall on the date it is authorized be a final administrative decision subject only to the application process for unreasonable economic hardship as specified in § 11-1607 and appealable only to the appropriate state court. Any appeal of the historic zoning commission's decision to the state court must be made within thirty (30) days. (as added by Ord. #93-02, June 1993)

11-1606. Enforcement. If the owner has not complied with the historic zoning commission's requirement to complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit within ten (10) days; or if the owner(s) does not adhere to the allotted schedule for the corrections to take place as approved or amended by the commission in the certificate of appropriateness; or if the owner(s) has not complied with the requirements specified from the commission's standards and guidelines detailed in the certificate of appropriateness, then any or all of the following may apply:

(1) The owner(s) may be required to attend the next meeting of the historic zoning commission to explain to the commission's satisfaction why the corrections to the owner(s) cited building/property have not been made and to show cause why the commission should not initiate additional enforcement

action. Upon review of any information provided regarding delays in the correction of the demolition by neglect, the commission may defer the matter in order to provide the owner(s) with more time either to correct the deficiencies, make a proposal for repairs, or perhaps sell the property.

(2) The commission, upon majority vote, may request the board of mayor and aldermen to direct the town attorney to take the appropriate legal action, either civil or criminal, against the owner(s).

(3) Charges may be brought against the owner(s) in the municipal court of the town for the violation(s) of this chapter.

(4) The commission may upon majority vote, request the board of mayor and aldermen to cause such property to be repaired by the town at the town's expense at such time funds are available, or to cause such property to be repaired by a designated agent of the town. If repairs are initiated through action by the board of mayor and aldermen, the board will instruct the town attorney to file the necessary affidavits with the courts and/or the register of deeds which shall establish a lien and privilege against the cited property for the benefit of the town or the agent of the town to the extent of the amount of money spent for said repairs plus interest accrued at bank prime rates in effect beginning at the completion of said repairs and continuing until the lien is satisfied.

(5) In final recourse and to preserve the property from irreversible damage or loss, violations of the minimum maintenance requirements shall make a property subject to the town's right of eminent domain. The commission may, upon majority vote, request the board of mayor and aldermen to exercise its power of eminent domain if it is determined that no alternate course of action is feasible. The board may work with any agent to develop a plan for the purchase and the repair of the cited building. Upon obtaining ownership of the property, the town may transfer said ownership to any party or agent that enters into and consummates an agreement with the board of mayor and aldermen to make the necessary building repairs and maintenance corrections in an agreed upon period of time. (as added by Ord. #93-02, June 1993)

11-1607. Unreasonable economic hardship. (1) Unreasonable economic hardship can be considered when enforcement of regulations in the chapter deprives the owner(s) of the entire reasonable economic value of the property. Enforcement of a minimum maintenance requirement may create unreasonable economic hardship only if all of the following apply:

(a) There is no reasonable return possible on the property as it is;

(b) There is no profitable use to which, the property could be adapted; and

(c) The sale or rental of the property is impractical or it is not feasible for the owner(s) to dispose of the property as is at a reasonable price.

(2) An owner(s) that feels he or she fits the criteria established for unreasonable economic hardship may file an application for a certificate of economic hardship. Applications will be accepted by the historic zoning commission after the commission votes to authorize the building inspector to issue a citation for violations and the notification has been received by the owner(s).

(3) The owner(s) of property cited for demolition by neglect must inform the historic zoning commission in writing of his or her intent to file an application for a certificate of economic hardship within ten (10) days of the date the citation was issued.

(4) The owner(s) of the cited property must file within thirty (30) days of the date the citation was issued, a completed application for a certificate of economic hardship. The completed application must be filed with the historic zoning commission and must be submitted with the following information:

(a) A copy with the current recorded deed.

(b) The amount paid for the property and purchase date.

(c) The current assessed value.

(d) Past and current use of property.

(e) Current market value of the property preferably determined by a recent appraisal(s) or if not through county tax records.

(f) Ownership structure of property (partnership, corporation, joint venture, not for profit, sole proprietorship, etc.)

(g) Mortgage history of the property including any current mortgage principal balance and interest rate, and any other financing secured by the property including a detail of principal and interest.

(h) Equity in current use and in previous alternative uses.

(i) Tax bracket of ownership, and federal income tax returns for previous two (2) years.

(j) Past and current income, expense, and net worth statements for a two (2) year period. If the property is income producing, annual gross income from the property and the itemized operating and maintenance expenses for the previous two (2) years. In addition the depreciation deduction and annual cash flow before and after debt services, if any, during the same period.

(k) Past capital expenditures during ownership of the current owner(s).

(l) Estimate of the cost of the proposed construction, alteration, demolition, or removal related to the corrective measures detailed in the citation issued by the historic zoning commission.

(m) A detailed description of what alternative legal adaptive uses have been considered by the owner(s).

(n) A detailed description of what efforts have been made by the owner(s) to sell the property, including any listing of the property for sale or rent, price asked, and offers received, if any.

(o) A detailed description of what efforts have been made by the owner(s) to obtain financial assistance, tax credits, transfer of density, etc. that might generate funding for the needed improvements.

(5) The historic zoning commission shall schedule and hold a public hearing on the owner's application for a certificate of economic hardship within thirty (30) days from receipt of the application. Notice of the date, time, and place of the hearing shall be provided to the owner(s) a minimum of seven (7) days in advance of the meeting.

(6) The historic zoning commission may require at the hearing that the applicant furnish additional information relevant to the application including, but not limited to, the solicitation of expert testimony.

(7) The historic zoning commission may request, receive, and consider studies and economic analysis related to the property in question from other agencies and sources including private organizations and individuals.

(8) In evaluating the owner's information provided in the application for a certificate of economic hardship, if the historic zoning commission determines that the owner(s) present return is not reasonable, the commission must consider whether there are other uses currently allowed for the structure that would provide a reasonable return and whether such a return could be obtained through an investment in the rehabilitation of the property.

(9) The historic zoning commission shall review all the evidence and information required of the applicant for a certificate of economic hardship, and make a determination within thirty (30) days following the conclusion of the hearing.

(10) Written notice of the determination will be provided to the applicant along with the reasons justifying the decision by the historic zoning commission.

(11) If the historic zoning commission grants a certificate of economic hardship, the commission must detail options it has considered that would bring the property up to minimum maintenance requirements and why each option is not deemed feasible. In granting a certificate of economic hardship, the historic zoning commission may determine that some corrections may be feasible while others cannot be implemented due to economic hardship. Under such circumstances, the historic zoning commission must authorize the building inspector to issue a building permit for any activity that is deemed feasible under the conditions detailed in the certificate of economic hardship.

(12) In granting a certificate of economic hardship, the historic zoning commission may also detail any feasible plan to relieve any aspect of the economic hardship. The plan may include, but is not limited to, tax relief, loans and grant available from any source public or private, building code modifications, etc. The commission may recommend that the planning commission consider changes in zoning. The commission may also request the board of mayor and aldermen to consider relaxation of the provisions of this chapter sufficient to allow reasonable beneficial use of or return from the

property. If no alternative cause of action has been deemed feasible, the commission may request the board to consider acquisition through eminent domain.

(13) If the historic zoning commission denies a certificate of economic hardship, the commission must detail in writing the economic and financial options that in the judgment of the commission will allow the improvements to be made to the property as required in the citation issued as specified in § 11-1605(2) above.

(14) If a certificate of economic hardship is denied by the historic zoning commission, the commission will revise, to the extent necessary, the designated schedule for completion of the corrective measures detailed in the citation taking into account any reasonable need for additional time due to time lost during consideration of the certificate application. The commission will notify the owner(s) in writing of any schedule amendments with the notification of the denial of the certificate.

(15) The determination by the historic zoning commission of an application for a certificate of economic hardship, either approving or disapproving, shall on the date it is issued be a final administrative decision appealable only to the appropriate state court. Any appeal of the historic zoning commission's decision to state court must be made within thirty (30) days. (as added by Ord. #93-02, June 1993)

11-1608. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by ord. #93-02, June 1993)

CHAPTER 17

OUTDOOR LIGHTING ORDINANCE

SECTION

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11-1701. Short title. The chapter shall be known as the Jonesborough Outdoor Lighting Ordinance. (as added by Ord. #2005-01, Jan. 2005)

11-1702. Purpose. The purpose of this chapter is to protect the public health, safety, welfare and quality of life of Jonesborough residents and visitors by establishing regulations and guidelines and a review process for the installation and use of exterior lighting that will achieve the following goals.

(1) To protect against direct glare and excessive lighting.

(2) To provide safe streets for motorists, cyclists, and pedestrians.

(3) To prevent light trespass in unwanted areas throughout town impacting the safety and privacy of Jonesborough residents, merchants, and visitors.

(4) To ensure that sufficient lighting is provided in public and commercial areas enhancing the safety of the general public in a cost-effective manner.

(5) To promote efficient and cost-effective lighting.

(6) To establish guidelines for the effective use of street lighting in Jonesborough at the minimal cost to tax payers.

(7) To provide protection from the sometimes unnecessary lighting expectations of commercial establishments to the people who live and/or work on adjoining properties. (as added by Ord. #2005-01, Jan. 2005)

11-1703. Scope and applicability. It is the intent of this chapter to provide guidelines and regulations concerning exterior lighting in all locations within the Town of Jonesborough where said lighting is used; including, but not limited to, residential, multi-family residential, commercial, industrial, public, public and private recreational, institutional, sign and billboard, and architectural and landscape lighting. All outdoor or exterior electrically powered illuminating devices shall be installed in conformance with the provisions of this chapter, the building code, the electric code, and the sign ordinance. (as added by Ord. #2005-01, Jan. 2005)

11-1704. Definitions. The following definitions shall apply in the implementation and enforcement of the outdoor lighting regulations contained in this chapter:

(1) "Disability glare." The eye's line-of-sight contact with a direct light source which causes a partial blindness.

(2) "Exterior lighting." Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside or outdoors. The night-time illumination of an outside area or object by a man-made device located outdoors, or by a fixture that is intended to shine outdoors, by any means. (Indoor fixtures intended to light something outside are considered exterior lighting.)

(3) "Fixture." The assembly that houses a lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, ballast, a reflector or mirror, and/or a refractor or lens.

(4) "Flood or spotlight." Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

(5) "Footcandle." A quantitative unit measuring the amount of light cast onto a given point, measured as one (1) lumen per square foot.

(6) "Full cut-off luminary." An outdoor light fixture shielded in such a manner that all light emitted by the fixture either directly from the lamp or indirectly from the fixture is projected below the horizontal plane running through the lowest point on the fixture where light is emitted, as certified by a

photometric test report. A light fixture which cuts off all upward transmission of light.

(7) "Fully shielded." Attribute of a lighting fixture provided with internal and/or external shields and louvers to prevent brightness from lamps, reflectors, refractors and lenses from causing glare at normal viewing angles.

(8) "Glare." Intense light that results in visual discomfort created by insufficiently shielded light sources in the field of view.

(9) "High intensity discharge lamp." A mercury vapor, metal halide, or high pressure sodium lamp.

(10) "Initial lumens/footcandles." The lumens/footcandles emitted from a lamp, as specified by the manufacturer of the lamp; the luminous flux of a lamp or the amount of light in footcandles emitted from the luminaire at the time it is first installed.

(11) "Lamp." The bulb or a component of a luminary that produces light.

(12) "Light inventory." The list of lamps in a fixture or luminary indicating the bulb type, bulb wattage, and manufacturer through which the rated lumens can be determined.

(13) "Light trespass." Light output or dispersions emitting from a light fixture or installation which is cast beyond the boundaries of the property on which the lighting installation is sited.

(14) "Lumen." A standard unit of measurement of luminous flux emitted by a light source. One (1) footcandle is one (1) lumen per square foot.

(15) "Luminaire." A complete lighting unit consisting of a lamp or lamps together with the fixture; or components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

(16) "Maintained footcandle." Luminance of lighting fixtures adjusted for a maintenance factor accounting for lamp output depreciation and dirt build-up. The maintenance factor to account for this depreciation is one-fourth (1/4), which means seventy-five percent (75%) of the initial lumens value will be used to determine compliance with § 11-1705 of this chapter.

(17) "Minor and major additions." Building additions or modifications and/or parking area expansions that are less than twenty-five (25%) percent of the existing use. The percentage of addition or modification shall be based on the land use of an initial development or the use at the time this Chapter is enacted and any subsequent single or cumulative additions or improvements. Cumulative modification or replacement of outdoor lighting constituting twenty-five percent (25%) or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a nonconforming site, shall constitute a major addition and be subject to requirements of § 11-1716. The routine changing of the tenants in a strip center, when not requiring building additions and only internal modifications, shall be considered a minor addition or change.

(18) "Non-essential." Lighting that is not necessary for an intended purpose after a purpose has been served. Non-essential lighting does not include security lighting at night and lighting used for safety and/or public circulation purposes. For the purposes of this chapter, "non-essential lighting" does include business/signage lighting after business hours, billboard lighting after 11:00 P.M., office and commercial or outdoor advertising lighting, parking lighting after closing hours, ballfield lighting after an activity, etc. (as added by Ord. #2005-01, Jan. 2005)

11-1705. Exterior lighting. All exterior lighting shall be full cut-off fixtures and comply with the following standards.

(1) The candlepower distribution classification of the luminary as a cut-off type shall be in accordance with the ASSI/IES lighting definitions and the IES (Illuminating Engineering Society of North America) Lighting Handbook.

(2) Cut-off luminaries shall be mounted and maintained plumb and level in accordance with the intended application of their design.

(3) All lighting shall be aimed, located, designed, fitted, and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property. The maximum light level projecting onto a neighboring residential property shall be six-fifths (6/5) maintained footcandles at any property line, and two (2) maintained footcandles at any public street right-of-way or commercial property. If initial footcandles are used, the maximum light level projecting onto a neighboring property shall be 1.5 initial footcandles at any property line, and two and one-half (2-1/2) initial footcandles at any public street right-of-way or commercial property.

When a property is zoned business but has a mixed or residential use, the offsite footcandle limitations shall be based as if the adjoining property was commercial.

(4) Pole mounted fixtures for lighting horizontal tasks shall be aimed straight down. (as added by Ord. #2005-01, Jan. 2005)

11-1706. Exceptions to 11-1705. The following exceptions have been made to the full cut-off requirements listed above in § 11-1705. Although the following exceptions allow luminaries that are not full cut-off fixtures to be used under certain conditions, other than the use of street lighting on public streets and rights-of-way, all excepted lighting installations must meet the light trespass restrictions established in this chapter in § 11-1705.

(1) Luminaries that have a maximum output of three thousand (3,000) lumens per fixture or less, regardless of the number of bulbs, may be left unshielded; provided the fixture has an opaque top to keep light from shining directly up. For the purpose of determining compliance with the regulations of

this chapter, the following rated lamp wattages shall be deemed to emit three thousand (3,000) or more initial lumens, unless documentation is provided by a lamp manufacturer that the rate wattage of a lamp emits either more or less than the three thousand (3,000) initial lumens.

(a) Incandescent lamp: one hundred sixty (160) or more watts.
(b) Quartz halogen lamp: one hundred sixty (160) or more watts.
(c) Florescent lamp: thirty-five (35) or more watts.
(d) Mercury vapor lamp: seventy-five (75) or more watts.
(e) Metal halide lamp: forty (40) or more watts.
(f) High pressure sodium lamp: forty-five (45) or more watts.
(g) Low pressure sodium lamp: twenty-five (25) or more watts.

If the luminaire is equipped with more than one (1) lamp, the lumens of the lamp with the highest initial lumens shall determine the lumens emitted.

(2) Externally illuminated billboards and signs shall be lighted by fixtures mounted at the top of the billboard or sign and aimed downward. The fixture shall be designed, fitted and aimed to place the light output onto and not beyond the sign or billboard.

(3) The planning commission (board of zoning appeals) can issue a variance to § 11-1705 above for sign and billboard lighting when presented with a lighting plan for floodlights that does not light from above; provided that the flood lights have external shielding that may be angled such that the light from the fixture does not cause glare or light to shine on adjacent property or public rights-of-way. Floodlights with directional shielding are encouraged. Floodlights must not project their output into the windows of neighboring residences, past the object being illuminated, skyward or onto a public roadway or pedestrian way.

(4) Internally lighted signs are allowable where bare bulbs cannot be seen directly, except as may be prohibited by zone, including the historic zone.

(5) Sensor activated lighting may be unshielded; provided it is located in such a manner as to prevent direct glare and lighting into adjoining properties or into the public right-of-way; and provided the light is set to only go on when activated and to go off within five (5) minutes after activation has ceased, and the light shall not be triggered by activity off the property.

(6) Vehicular lights and all temporary emergency lighting needed by the fire and police departments or other emergency services shall be exempt from the requirements of this chapter.

(7) The United States and State of Tennessee flags shall be permitted to be illuminated from dusk until dawn. Flag lighting sources shall not exceed ten thousand (10,000) lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag.

(8) Temporary holiday or special event lighting are exempt, however, non-cutoff luminaries shall not exceed three thousand (3,000) lumens and shall be situated to prevent disability glare and light trespass. All flood lamps or spotlights shall be directed away from adjacent properties and roadways.

(9) Exterior lighting for public monuments.

(10) Transportation/traffic related signals.

(11) Street lighting approved for use within the Town of Jonesborough.

(12) Decorative parking lot or private street lighting fixtures using high pressure sodium or low pressure sodium lamps having no more than one hundred fifty (150) watt output per lamp.

(13) Any high pressure sodium or low pressure sodium lighting fixture with no more than one hundred (100) watt output per lamp provided that the light emitted above the horizontal plane is less than two and one-half percent (2-1/2%) of the lamp's total light output and the adjoining properties are protected from glare.

(14) Any light fixture used regularly by the Johnson City Power Board approved for use in parking lot, roadway or security use within the Town of Jonesborough. (as added by Ord. #2005-01, Jan. 2005)

11-1707. Light measurement technique. Light levels are specified, calculated and measured in Footcandles (FC). Measurements shall be taken with a light meter that has a cosine and color correction and an accuracy to luminance of no greater than plus or minus five percent (5%). Measurements shall be taken with a light meter that has been calibrated within the year.

Light level measurements shall be made at the property line of the property which the light to be measured is generated. Measurements shall be made at finished grade with the light registering portion of the meter held parallel to the ground pointing up. (as added by Ord. #2005-01, Jan. 2005)

11-1708. Non-essential lighting. All non-essential commercial or business lighting, including display, aesthetic, parking and sign lighting area encouraged to be turned off after business hours, leaving only the necessary lighting for site security. Parking facility and vehicular and pedestrian way lighting, except those minimum lights needed for security and all-night business operations; for commercial, industrial, and institutional uses shall be encouraged to be extinguished no later than one (1) hour after the close of business or facility operation. (as added by Ord. #2005-01, Jan. 2005)

11-1709. Lights for public street illumination. Lights used to illuminate public streets or roadways owned by the Town of Jonesborough may be installed at a maximum height of twenty-five feet (25') and may be positioned at that height up to the edge of any bordering property. Street lights on state right-of-way shall not exceed the minimum height determined by the State of Tennessee.

(1) Use requirements of various fixtures. (a) Low pressure sodium: This is the preferred light source to reduce light pollution. Low pressure sodium lights may be used in any zone. Fully shielded fixtures are preferred but not required.

(b) Metal halide: This type of light source may be used for field lighting for recreational use. Metal halide lighting is primarily used for display purposes and it shall not be used for security lighting after 11:00 P.M. or after closing hours if before 11:00 P.M. Metal halide lamps shall be installed only in enclosed luminaries.

(c) Mercury vapor: A quarts tube filled with mercury with a High Intensity Discharge (HID). Because of the high energy costs, this fixture should not be used for street lights.

(d) High pressure sodium: Used mainly for outdoor lighting, more efficient than metal halide, and a good choice if true color is not critical.

(2) Street lights shall be included in all new residential, commercial and industrial developments in which public streets and/or rights-of-way are included. A street light plan shall be included in the final site plan. Street light locations shall be determined based on the following elements:

(a) Number of intersections - at least one (1) located at each intersection.

(b) Number of curves and cul-de-sacs.

(c) Pedestrian crossings.

(d) Tree locations, especially where tree height is lower than the height of the street light.

(e) Driveways to non-public facilities that carry substantial traffic.

(f) Any other area creating a safety concern.

Street lights on public streets or rights-of-way are intended for safety purposes. The director of public safety will have final authority to approve the necessary number of street lights in a development. Street lights under the responsibility of the town shall be used to improve both vehicular and pedestrian safety on streets and rights-of-way, and are not intended to be used to light adjoining properties.

Street lighting intended to be dedicated to the Town of Jonesborough shall comply with the Jonesborough Street Lighting Policy. (as added by Ord. #2005-01, Jan. 2005)

11-1710. Lights for commercial and industrial parking areas. Fixtures on poles for the lighting of commercial industrial parking areas shall not exceed a height of twenty-five feet (25'). (as added by Ord. #2005-01, Jan. 2005)

11-1711. Use of vegetative and other screens. While the use of screening materials to avoid disability glare and light trespass is encouraged, vegetative screens and other such mechanisms used to block glare shall not be employed to serve as the primary means of controlling glare; rather glare control shall be achieved through such means as cut-off fixtures, shields and buffers, and appropriate application of fixture mounting height, wattage, aiming angle and

fixture placement. The Jonesborough Planning Commission may allow screening to be used when necessary to reduce disability glare and light trespass with existing applications that cannot be improved through requirements outlined in § 11-1715 of this chapter. However, any vegetation or other screening/buffering approved and installed to facilitate compliance with the requirements of this chapter shall be deemed to be a required buffer and must be maintained as a required buffer under the requirements specified in § 11-617 of the municipal code. When vegetative or other such screening/buffering is used to block glare or prevent light trespass, the benefit derived from such screening/buffering shall be calculated on the object size at the time of installation, not what potential growth may occur in the future. (as added by Ord. #2005-01, Jan. 2005)

11-1712. Under-canopy commercial lighting. Under-canopy lighting, for such application as gas-service stations, hotel-theater entrances, fastfood/bank/drug store covered drive-ups, etc., shall be located within twenty-five feet (25') of the ground or less; and shall be accomplished using flat-lens full cut-off fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixtures shall be below the light source at all lateral angles. (as added by Ord. #2005-01, Jan. 2005)

11-1713. Security lighting requirements. Non-cut-off luminaries shall be permitted for security lighting use; provided that the luminaries used meet the following requirements:

(1) All luminaries shall be shielded and aimed so that the light intensity distribution is directed toward the functional area being secured or protected. Luminaries shall not be directed toward property lines if such direction causes light trespass.

(2) Security lighting shall not be used to illuminate vertical surfaces, i.e. building facades, walls, doors, and windows, etc. that are higher than eight feet (8') above grade.

(3) Poles and fixtures used for security lighting with non-cut-off luminaries should be no farther than ten feet (10') beyond the perimeter of the area being secured.

(4) Security lighting used to illuminate a perimeter such as a fence line is encouraged to have motion sensors that will keep lights off until activated by motion. (as added by Ord. #2005-01, Jan. 2005)

11-1714. Exception for alternative technology. Luminaries that do not meet the definition for cut-off luminaire, yet employ alternative technology that causes the photometric performance to approach that of cut-off luminaries, may be approved on a case-by-case basis by the Jonesborough Planning Commission. Such luminaries include, but are not limited to, period-style luminaries with refractive globes and internal cut-off reflectors. (as added by Ord. #2005-01, Jan. 2005)

11-1715. Modifications, waiver or variation. The board of zoning appeals may modify, waive or vary the standards and requirements set forth in this chapter in a particular case or individual circumstance, and the board of zoning appeals may impose conditions of such modifications, waivers or variations which it deems appropriate to further the purposes of these outdoor lighting regulations under the following circumstances:

(1) Upon a finding that strict application of a standard would not forward the purposes of this chapter or otherwise serve the public interest, or that alternatives proposed by the owner/developer would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.

(2) Upon a finding that an outdoor luminaire or system of outdoor luminaries cannot reasonably comply with the standards set forth in this chapter and reasonably provide a safe use as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type use or activity.

Prior to considering a request to modify, waive or vary by the Jonesborough Board of Zoning Appeals, a written notice shall be provided to the owner, owner's agent or occupant of each abutting or adjoining lot or parcel and each parcel immediately across any street or road from the site which is the subject of the request. The written notice shall be sent five (5) days in advance of the meeting and shall identify the nature of the request along with the date and time the board of zoning appeals will consider the request. (as added by Ord. #2005-01, Jan. 2005)

11-1716. Nonconforming luminaries and lighting systems. Any lighting fixture or lighting installation existing on the effective date of this chapter that does not conform with the requirements of this chapter shall be considered as a lawful non-conformance. A nonconforming lighting fixture or lighting installation shall be made to conform with the requirements of this chapter when:

(1) Minor corrective action such as re-aiming or shielding can achieve conformity with the applicable requirements of this chapter. The Jonesborough Building Inspector shall determine if the corrective action needed is considered minor. The building inspector's decision can be appealed to the Jonesborough Board of Zoning Appeals whose decision is final administratively.

(2) It is deemed by the public safety department or other designated department of the Town of Jonesborough to create a serious safety hazard.

(3) It is replaced by another fixture or fixtures, expanded, abandoned or relocated.

(4) There is a change in use, expansion, renovation or an abandonment of use with the property.

(a) The relinquishment of a property, or the cessation of a use or activity by the owner or tenant for a period of six (6) months; excluding temporary or short term interruptions for the purpose of remodeling,

maintaining or otherwise improving or rearranging a facility that is defined as minor additions, shall be deemed abandonment of use. A use shall be deemed abandoned when such use is suspended as evidenced by the cessation of activities or conditions that constitute the principle use of the property. If a property or use with nonconforming lighting is abandoned, then all outdoor lighting shall be reviewed and brought into compliance with this chapter before the use is resumed or a new certificate of occupancy is issued.

(b) Additions or modifications of more than twenty-five (25%) percent to existing uses including, but not limited to, additional dwelling units, gross floor area or parking spaces, either with a single addition or with cumulative additions initiated after the effective date of this chapter, but not considered minor additions as defined, shall invoke the requirements of this chapter for the entire property, including previously installed and any new outdoor lighting.

(c) Minor additions as defined in § 11-1704, or modifications of less than twenty-five percent (25%) to existing uses that require a building permit, shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting, as specified in §§ 11-1719 and 11-1720 of this chapter. Any new lighting on the site shall meet the requirements of this chapter with regard to shielding and lamp type, the total outdoor light output after the modifications have been completed shall not exceed that on the site before the modifications, or that permitted by this chapter, whichever is larger.

Nonconforming luminaries and lighting systems may be maintained and repaired, including replacement of burned out or inoperative lamps, and replacement or repair of inoperative components like ballasts, igniters, lenses, reflectors, refractors, sockets, or photocell controls. (as added by Ord. #2005-01, Jan. 2005)

11-1717. Determination of safety hazard. If the public safety department or other designated Town of Jonesborough department determines that a lighting fixture or lighting installation creates a safety hazard, the person(s), business, corporation, or other such entity responsible for its existence and/or maintenance shall be notified of said safety hazard and required to take remedial action. Notification shall be in writing and shall include a description of the safety hazard and the expected corrective actions to be taken. Corrective action shall take place in a reasonable period of time to be determined by the public safety director, building inspector or Jonesborough Planning Commission, however, the time period for corrective action shall be at least fourteen (14) days. Failure to comply with the corrective actions detailed in the notification within the time period required will be deemed a violation of this chapter and subject to fine. (as added by Ord. #2005-01, Jan. 2005)

11-1718. Improper lighting installation. If the building inspector and/or designated enforcement official determines that a lighting installation has been or is being made in violation of this chapter including, but not limited to, producing unacceptable levels of disability glare, skyward light, excessive or insufficient illumination levels, or other such variation from the requirements of this chapter, the following steps shall be taken:

(1) If the installation is in progress, the building inspector or designated enforcement official may issue a stop work order requiring installation to cease until corrective action has been taken.

(2) Notification of the violation shall be given to the person(s), business, corporation or other such entity responsible for the luminaire(s) giving a summary of the violation(s) and expected corrective action(s). A reasonable period of time will be given for the remedial action to be implemented, however, unless the violation involves a serious safety hazard as in § 11-1716, a minimum of thirty (30) days will be given to allow for the appropriate corrective action. Failure to take the corrective action within the designated time period will be deemed a violation of this chapter. (as added by Ord. #2005-01, Jan. 2005)

11-1719. Site plan requirements. Site plans required to be presented to the Jonesborough Planning Commission for final approval shall have a lighting plan that shall include the following:

(1) Land use of adjoining properties and zone(s).

(2) Property boundary lines.

(3) Areas or elements to be illuminated on the property.

(4) Proposed layout of the outdoor or exterior lighting installation on the property including, but not limited to:

(a) All pole-mounted luminaries - location and mounting height.

(b) Ballard or pedestal-mounted luminaries.

(c) Canopy-mounted luminaries.

(d) Luminaries mounted on the exterior of buildings and structures, except residential building mounted fixtures do not need to be included.

(e) Fixture type and designation for all luminaries required including light inventory, aiming direction and mounting height.

(f) Manufacture's product data sheet including photometric report (certified to IES standards).

(g) An luminance grid projecting the lighting coverage areas on the perimeter of the property and any impact on adjoining properties.

(h) Optional: detail outlining cutoff plan for non-essential lighting. (as added by Ord. #2005-01, Jan. 2005)

11-1720. Exceptions to site plan requirements. Individuals, corporations, developers, contractors, etc. installing lighting in a commercial or institutional

setting may be exempt from the requirements of submitting a full lighting plan as part of the site plan for approval under the following conditions:

(1) The light fixtures used are listed in the Jonesborough list of approved lighting fixtures through the Johnson City Power Board.

(2) The individual or official representative of the corporation, developer, contractor, etc. installing the lights signs a certification stating that he or she has read, understands, and agrees to comply with the town's outdoor lighting ordinance and street lighting policy.

(3) The building inspector is given the necessary information to determine that the lighting used will meet the requirements of the town's lighting ordinance and street lighting policy and is comfortable in issuing the building permit.

(4) Any performance bond requirements that include the outdoor lighting are met to the satisfaction of the building inspector and town attorney.

The planning commission shall have the right to request any information they feel is necessary to ensure that the purposes of these outdoor regulations are met. (as added by Ord. #2005-01, Jan. 2005)

11-1721. Owner/developer retains responsibility. Approval of a lighting plan does not relieve the property owner, developer, contractor, etc. of their responsibility for meeting the terms of this chapter should any lighting fixture or application fail to perform as approved. The building inspector or designated enforcement officer shall have the authority to require modification to the installed lighting if a violation is determined to exist. (as added by Ord. #2005-01, Jan. 2005)

11-1722. Change in lamp or fixture. Any change in luminaire, mounting height, aiming direction, etc. from the plan approved by the planning commission must be submitted to the building inspector and/or designated enforcement official for review. If the building inspector or designated enforcement official determines the change is minor and still conforms with the requirements of this chapter, the building inspector can approve the changes in writing. However, any change deemed significant will have to be re-presented to the planning commission for review and approval. (as added by Ord. #2005-01, Jan. 2005)

11-1723. Conflicts with other ordinances and policies. If any regulation or requirement in this chapter is in conflict with a regulation, guideline or requirement in state law or another Jonesborough ordinance or policy, the more stringent of the regulations, guidelines, or requirements shall apply. (as added by Ord. #2005-01, Jan. 2005)

11-1724. Penalties. Any violation of this chapter will be deemed a misdemeanor and will be subject to the maximum fine allowed by state law. Each and everyday a violation occurs shall be deemed as a separate violation. The building inspector, public safety officers and/or any designated enforcement official approved by the Jonesborough Board of Mayor and Aldermen shall have the authority to determine violations, issue citations, and carryout the enforcement responsibilities of this chapter. (as added by Ord. #2005-01, Jan. 2005)

11-1725. Severability. If any provisions of this chapter are held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions. (as added by Ord. #2005-01, Jan. 2005)

CHAPTER 18

PERMANENT WATER QUALITY STORMWATER MANAGEMENT

SECTION

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11-1801. Short title. This chapter be known as the "Permanent Water Quality Stormwater Management Ordinance of the Town of Jonesborough, Tennessee." (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1802. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Jonesborough; promote the public health and welfare of the people by establishing requirements for the control of stormwater, by establishing procedures whereby these requirements shall be administered and enforced; diminish threats to public safety from degrading water quality caused by stormwater conveying excessive pollutants into our public drainage systems; and reduce the economic loss to individuals and the community at large. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1803. Definitions. For the purpose of this chapter, the following definitions shall apply:

(1) "Best Management Practices (BMP or BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural or non-structural practices.

(2) "Channel." A natural or man-made watercourse with a defined bottom and banks to confine and convey continuously or periodically flowing stormwater.

(3) "Construction." Any placement, assembly, or installation of facilities or equipment at the premises where such equipment will be used, including preparation work at such premises.

(4) "Covenants for maintenance of stormwater facilities and best management practices." A legal document executed by the property owner, or a homeowners' association as owner of record, and recorded with the register of deeds in the Washington County, Tennessee Courthouse which guarantees maintenance of water quality management facilities and best management practices.

(5) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity or any other legal entity, or their legal representative, agents, or assigns.

(6) "Development." Any land change that alters the hydrologic or hydraulic conditions of any property, often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, water quality management facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

(7) "Development plan." Detailed engineering or architectural drawing(s) showing existing site conditions and proposed improvements with sufficient detail for town review, approval, and then subsequent construction. The contents of a development plan are further defined by the town zoning ordinance, subdivision regulations, and other town departmental standards for constructing developments and public works projects.

(8) "Exceptional waters of the state." Surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters with exceptional biological diversity or other waters with outstanding ecological or recreational value as determined by the State of Tennessee.

(9) "Existing stormwater facility." Any existing structural feature that conveys, slows, filters, or infiltrates runoff after a rainfall event.

(10) "Hotspot." An area where the land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater. These sites could include concrete and asphalt facilities, auto repair, auto supply, car washed, and large commercial parking lots.

(11) "Impaired waters of the state." Any segment of surface waters that has been identified by the State of Tennessee as failing to support classified

uses. The State of Tennessee periodically compiles a list of such waters known as the 303(d) list.

(12) "Impervious surface." A surface comprised of material(s) that prohibits or severely restricts the infiltration of stormwater into the underlying soil such as, but not limited to, asphalt, buildings, concrete, and brick. Compacted stone/gravel such as found in parking and drive areas is considered impervious.

(13) "Lake." An inland body of standing water, usually of considerable size.

(14) "NPDES - National Polluant Discharge Elimination System." NPDES is the program administered by the United States Environmental Protection Agency to eliminate or reduce pollutant discharges to the waters of the United States.

(15) "Owner or property owner." The legal owner of the property as recorded in the register of deeds office in the Town of Jonesborough, Tennessee.

(16) "Person." Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

(17) "Pond." An inland body of standing water that is usually smaller than a lake.

(18) "Redevelopment." The improvement of a lot(s) or parcel of land that is improved with existing structures. If the existing impervious areas including, but not limited to, buildings and parking remain as is, then this chapter only applies to the newly constructed structures and disturbed areas. If the existing impervious areas are removed and the soil underneath disturbed and then replaced with new impervious areas or newly graded areas then this chapter applies to the entire disturbed area. Areas or uses designated as "hotspots" that are redeveloped must provide water quality improvements for not only the new impervious and graded areas but also the existing impervious areas that remain.

(19) "Sediment." Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

(20) "Stormwater ." Also "stormwater runoff" or "runoff." Surface water resulting from rain, snow, or other form of precipitation, which is not absorbed into the soil and results in surface water flow.

(21) "Stream." For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and is regulated by the town as a Special Flood Hazard Area (SFHA) or has been identified by the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a stream.

(22) "Structure." For the purpose of this chapter, anything constructed or erected such that the use of it requires a more or less permanent location on

or in the ground. Such construction includes, but is not limited to, objects such as buildings, houses, towers, overhead transmission lines, carports, garages, walls, parking areas, driveways, roads, and sidewalks.

(23) "TMDL - Total Maximum Daily Load." A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(24) "Town." The Town of Jonesborough, Tennessee.

(25) "Town administrator." The Town Administrator of the Town of Jonesborough, Tennessee, or designee.

(26) "Transporting." Any moving of earth materials from one (1) place to another, other than such movement incidental to grading, as authorized on an approved plan.

(27) "Vegetated buffer." A use-restricted vegetated area that is located along the perimeter of streams, ponds, lakes, or wetlands, containing natural vegetation and/or enhanced or restored vegetation.

(28) "Water quality BMP manual." A document which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used as the policies and technical guidance for implementation of the provisions of this chapter. The manual to be used shall be the Town of Jonesborough's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(29) "Water quality management facilities." Structural and non-structural features designed to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment.

(30) "Water quality management plan." An engineering plan for the design of water quality management facilities and best management practices within a proposed development or redevelopment. The water quality management plan includes a plan showing the extent of the land development activity, water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas, design calculations for water quality management facilities and BMPs, and may contain record drawings/certifications and covenants for maintenance of stormwater facilities and best management practices along with easements for the water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas.

(31) "Water quality volume reduction." A decrease in the water quality volume for one (1) or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the water quality BMP manual are met.

(32) "Water quality volume reduction areas." Areas within the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(33) "Waters of the state." Defined in the Tennessee Water Quality Control Act and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to affect a junction with natural surface or underground waters.

(34) "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1804. General requirements. (1) Owners of land development activities not exempted under § 11-1806 must submit a water quality management plan. The water quality management plan shall be submitted as part of the site development plans as required by the town zoning ordinance, subdivision regulations, and other standards for development plans.

(2) The water quality BMP manual to be used shall be The Town of Jonesborough's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(3) The water quality management plan shall include the specific required elements that are listed and/or described in the water quality BMP manual. The town administrator may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

(4) The water quality management plan shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations including the peak stormwater management and erosion and sediment control ordinance.

(5) Water quality management plans shall be prepared and stamped by a design professional qualified to prepare stormwater and site plans in accordance with State of Tennessee law.

(6) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved prior to approval of a water quality management plan by the town.

(7) The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved

water quality management plan without prior approval of a plan amendment by the town administrator.

(8) The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the town administrator during the course of grading or construction that the approved plan is inadequate.

(9) The water quality management plan shall include a listing of any known legally protected state or federally listed threatened or endangered species and/or critical habitat located in the area of land disturbing activities and a description of the measures that will be used to protect them during and after grading and construction.

(10) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be maintained through covenants for maintenance of stormwater facilities and best management practices or other legal means as determined by the town administrator. The other means must be legally enforceable to ensure ownership, maintenance responsibility, and inspection requirements are provided for in perpetuity. The covenants, or other legal means, must be approved by and shall be enforceable by the town. The covenants shall be recorded with the register of deeds at the Washington County Courthouse and shall run with the land and continue in perpetuity.

(11) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be placed into a permanent stormwater facilities and best management practices easement held by the town that is recorded with the register of deeds at the Washington County Courthouse.

(12) A maintenance right-of-way or easement, having a minimum width of fifteen feet (15') shall be provided to all water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas from a driveway, public road or private road.

(13) Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in this chapter in order to satisfy other local, state, and federal water quality requirements. Areas subject to additional requirements may also include developments, redevelopments, or land uses that are considered pollutant hotspots or areas where the town administrator has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

(14) The town administrator may waive or modify any of the requirements of § 11-1805 of this chapter if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site water quality management facility, or if engineering studies determine that installing the required water quality management facilities or BMPs would

actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

(15) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. If provisions of this chapter and another regulation conflict, that provision which is more restrictive or imposes higher standards or requirements shall control. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1805. Design criteria. (1) All owners of developments or redevelopments who must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(a) The stormwater runoff from the site must be treated for water quality prior to discharge from the site in accordance with the stormwater treatment standards and criteria provided in the water quality BMP manual and as found in the peak stormwater management and erosion and sediment control resolution.

(b) The treatment of stormwater runoff shall be achieved through the use of one (1) or more water quality management facilities and/or BMPs that are designed and constructed in accordance with the water quality BMP manual or other BMPs as approved by the town administrator.

(c) Methods, designs or technologies for water quality management facilities or BMPs that are not provided in the water quality BMP manual may be submitted for approval by the town administrator if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the water quality BMP manual and this chapter.

(d) BMPs shall not be installed within public rights-of-way or on public property without prior approval of the town administrator.

(2) All owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria stated in the water quality BMP manual. Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the town administrator. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate channel protection from erosion must be provided.

(3) All owners of developments or redevelopments who require a grading permit, plan approval, or subdivision approval shall establish, protect, and maintain a vegetated buffer along all streams, ponds, rivers, lakes, wetlands, or other waters of the state.

The buffer widths are based on the drainage area to the point along the stream or other waters of the state where the buffer is being determined:

(a) For drainage area less than one (1) square mile, the buffer is thirty feet (30').

(b) For drainage areas one (1) square mile or more, the buffer is sixty feet (60') average with a thirty feet (30') minimum width. To use the sixty feet (60') average/thirty feet (30') minimum method, it must be shown that the straight sixty foot (60') width would be a hardship to developing the property and may not be based solely on the difficulty or the cost of implementation.

If it is not practical to provide the required buffer or only a portion of the buffer can be provided, approval through the Town of Jonesborough Board of Zoning Appeals must be obtained. Justification for this variance must be justified in accordance with the boards of zoning appeals criteria.

Exemptions from this requirement are as follows:

(a) Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes, rivers, or wetlands.

(b) Vegetated buffers are not required around water quality management facilities, BMPs, or detention ponds that are designed, constructed and maintained for the purposes of water quality and/or quantity control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality BMP manual.

(c) The installation of utilities, development of roads crossing the waterway, trails and walkways, or construction of outfalls for stormwater facilities and related drainage improvements, and the removal of invasive species to enhance the existing buffer are allowed within the buffer. These utility, road, trail/walkway, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the waters of the state and their buffers. Any disturbance to streams, wetlands, or other waters of the state require an aquatic resource alteration permit through the State of Tennessee.

(4) In addition to the above requirements, all owners of developments or redevelopments who must submit a water quality management plan shall:

(a) Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the town;

(b) Control stormwater drainage onsite and provide peak stormwater management in accordance with the ordinances and regulations of the town; and

(c) Adhere to all local floodplain development requirements in accordance with ordinances and regulations of the town. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1806. Exemptions. (1) Owners of developments and redevelopments who conform to the criteria in § 11-1806(3) are exempt from the requirements of this chapter, unless the town administrator has determined that treatment of stormwater runoff for water quality is needed to order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

(2) The exemptions listed in § 11-1806(3) shall not be construed as exempting the owners of developments and redevelopments from compliance with stormwater requirements stated in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations including peak stormwater management and erosion prevention and sediment control.

(3) The following developments and redevelopments are exempt from the requirements for a water quality management plan:

(a) Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would potentially disturb one (1) acre or more and the stormwater runoff from the development or redevelopment is not treated for water quality via a downstream or regional water quality management facility or BMP that meets the requirements of this chapter;

(b) Minor land disturbing activities such as residential or non-residential repairs, landscaping, or maintenance work;

(c) Public utility service connections, unless such activity is carried-out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(d) Installation, maintenance, or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(e) Agricultural activities; and

(f) Emergency work to protect life, limb or property, and emergency repairs. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1807. Special pollution reduction requirements. (1) A special pollution reduction plan shall be required for the following land uses, which are considered pollutant hotspots:

(a) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including, but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;

(b) Recycling and/or salvage yard facilities;

(c) Restaurants, grocery stores, and other food service facilities;

(d) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos; and

(e) Other producers of pollutants identified by the town administrator as a pollutant hotspot using information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.

(2) A special pollution reduction plan may be required for land uses or activities that are not identified by this chapter as hotspot land uses but are deemed by the town administrator to have the potential to generate concentrations of pollutants in excess of those typically found in stormwater.

(3) The special pollution reduction plan shall be submitted as part of the water quality management plan and the BMPs submitted on the plan shall be subject to all other provisions of this chapter.

(4) Best management practices specified in the special pollution reduction plan must be appropriate for the pollutants targeted at the site.

(5) A special pollution reduction plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1808. Performance bonds. (1) A performance bond that guarantees satisfactory completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers is required. Final plat approval or certificate of occupancy may be granted if items in § 11-1808(3) and (4) are completed or if a performance bond guarantees their completion.

(2) The performance bond must be in a form satisfactory to and approved by the town attorney, and it must be properly executed and filed with the town administrator. A project cost summary must accompany the application so that it can be used to help determine the bond amount. The bond may not be higher than an amount equal to the estimated cost of the improvements plus an additional fifteen percent (15%), and said bond shall only be released by the town administrator following completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers. The planning commission shall determine the amount of the bond and the date the bond will become due, but in no event

will this period exceed one (1) year. Any performance bond shall become due upon the developer's failure to comply with the terms and requirements of any notice of non-compliance properly issued pursuant to § 11-1810(2)(f). Upon the posting of the bond, the developer must sign and have notarized a grant of authority to the Town of Jonesborough to implement the construction work related to water quality management facilities, BMPs, channel protection, and/or the establishment of vegetated buffers upon developer's failure to comply with the water quality management plan or the notice of non-compliance.

(3) Prior to approval of a final subdivision plat, release of the performance bond, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an executed and recorded copy of the protective covenants and an executed and recorded copy of the easement plat showing the easements associated with the locations of the best management practices, water quality management facilities, vegetated buffers, water quality volume reduction areas, and access easements to said facilities.

(4) Prior to approval of a final subdivision plat, release of the performance bond, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an accurate record drawing of the property for all the best management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1809. Record drawings and design certification. (1) Prior to approval of a final subdivision plat, release of the performance bond, and/or the issuance of an occupancy permit, the property owner/developer has to provide the town with an accurate record drawing of the property for all the best management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas shown on the approved water quality management plan(s).

(2) The boundaries of water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(3) Record drawings shall include sufficient design information to show that water quality management facilities required by this chapter will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size water quality management facilities and BMPs.

(4) The easements associated with the water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(5) The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan and/or a registered land surveyor licensed to practice in the State of Tennessee. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1810. Inspections and maintenance. (1) Right of entry. (a) During and after construction, the town administrator or designee may enter upon any property which has a water quality management facility, BMP, vegetated buffer, or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this chapter, or to request or perform corrective actions.

(b) Failure of a property owner to allow such entry onto a property for the purposes set forth in § 11-1810(1)(a) shall be cause for the issuance of a violation, stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(2) Requirements. (a) The owner(s) of existing stormwater facilities, water quality management facilities, BMPs, vegetated buffers, and water quality volume reduction areas shall inspect and maintain all devices and areas in accordance with the covenants for maintenance of stormwater facilities and best management practices.

(b) Inspection and maintenance of privately-owned existing stormwater facilities, water quality management facilities, best management practices, vegetated buffers, and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas. The best management practices owner shall perform routine inspections on at least an annual basis. Inspections shall be performed by a person familiar with the control measures. The best management practices owner shall maintain documentation of these inspections. A comprehensive inspection of all BMPs shall be conducted once every five (5) years by a professional engineer or landscape architect. Records stating the BMP, date, latitude/longitude, address, BMP owner information, description of BMP, photos of BMP and any corrective action needed and when performed shall be maintained by the BMP owner.

(c) Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the covenants for maintenance of stormwater facilities and best management practices and the water quality BMP manual. Inspection and maintenance activities shall be documented by the property owner (or his/her designee), and such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the town administrator upon request.

(d) The town administrator has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(e) The removal of sediment and/or other debris from existing stormwater facilities, water quality management facilities, and best management practices shall be performed in accordance with all town, state, and federal laws and the water quality BMP manual. The town administrator may stipulate additional guidelines if deemed necessary for public safety.

(f) The town administrator may order corrective actions to best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the town for the purposes of water quality treatment, channel erosion protection, adherence to local performance standards, and/or public safety. When corrective action is required, the BMP owner must initiate the correction action within thirty (30) days of notice. If the property owner(s) fails to perform corrective action(s), the town administrator shall have the authority to order the corrective action(s) to be performed by the town or others. In such cases where a performance bond exists, the town shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars ($100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this chapter.

(3) Any alteration, improvement, or disturbance to water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shown in the water quality management plan, certified record drawings, and/or easement plats shall be prohibited without authorization from the town administrator. This does not include alterations that must be made in order to maintain the intended performance of the water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1811. Appeal of administrative action. Actions taken by the town administrator as authorized in this chapter are subject to appeal by the board of zoning appeals provided an appeal is timely filed in writing at the office of the town administrator within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects the developer's rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1812. Variances. (1) Variances to the requirements of this chapter shall be handled by the board of zoning appeals.

(2) The board of zoning appeals shall not approve variances that cause the town to be in violation of any state or federal NPDES permit, TMDL, or other applicable water quality regulation. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1813. Violations and penalty. Any developer or person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized enforcement officer or the Jonesborough Planning Commission, shall be guilty of a violation of this municipal ordinance, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person shall be subject to fines of up to five thousand dollars ($5,000.00) per day for each day of violation (Tennessee Code Annotated, § 68-221-1101). Unless otherwise specified within any section of this chapter, the building inspector and the public works director are the designated enforcement officers of this chapter. Citations for violations may be issued by any enforcement officer, the public safety director or any Jonesborough Police Officer. (as added by Ord. #2012-10, Dec. 2012, and replaced by Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1814. Severability. If any provision of this chapter is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any other provision of this chapter. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

11-1815. Effective date. This chapter will go into effect immediately upon passage on second and final reading; however, development projects that have already received at least preliminary site plan approval from the

Jonesborough Regional Planning Commission shall be exempt from the requirement to develop a water quality management plan. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 ***Ch12_04-09-18***)

TITLE 12

STREETS AND OTHER PUBLIC WAYS AND PLACES[1]

CHAPTER
1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. MAINTENANCE OF DRIVEWAY DRAINAGE CULVERTS.
4. SPECIAL EVENTS.
5. JONESBOROUGH TREE ORDINANCE.
6. JONESBOROUGH HERITAGE TREE PROGRAM.

CHAPTER 1

MISCELLANEOUS

SECTION
12-101. Obstructing streets, etc.
12-102. Cellar doors opening over sidewalks.
12-103. Depositing refuse on streets, etc.
12-104. Hog troughs, etc., on streets, etc.
12-105. Fires in streets and alleys.
12-106. Trees obstructing utility wires.
12-107. Procedure for special events.
12-108. Permits required for the exclusive use of any park or other municipal area.
12-109. Fundraising roadblocks prohibited.

12-101. Obstructing streets, etc. It shall be unlawful for anyone in any manner to obstruct the sidewalks, streets, or gutters of said town by erecting or establishing anything that is calculated to obstruct or render less serviceable the sidewalks, streets, or gutters or any portion thereof without permission of the Board of Mayor and Aldermen. [Ord. 40 of April 16, 1906, §§ 1 and 2, modified]

12-102. Cellar doors opening over sidewalks. It shall be unlawful for any cellar doors opening out on any of the streets or alleys of the town to be elevated above the pavements or sidewalks contiguous, and any such door now elevated above such sidewalk shall be placed down on a level at all points with such pavements or sidewalks. Such cellar doors shall be made of iron or wood at the elevation at the respective property owners and, if wood, be made of good sound

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[1]See title 9 in this code for related motor vehicle and traffic regulations.

seasoned timber not less than one and one-half inches in thickness and kept in good repair at all times. [Ord. 26 of April 16, 1906, § 1]

12-103. Depositing refuse on streets, etc. It shall be unlawful for any person to throw or cast any peelings or the hulls of any fruits, vegetables, or nuts, any pieces of glass, or metal, rocks, bricks, paper, wood, or sharp substance of any kind, or any refuse, matter, garbage, or filthy matter of any kind on the streets or sidewalks. [Ord. of Jan. 2, 1914, § 1]

12-104. Hog troughs, etc., on streets, etc. It shall be unlawful for any person to keep any hog trough, bin, or vessel for feeding swine, or for any other purpose, on any of the streets or alleys of said town, or keep any hog pen on or so near any of said streets or alleys as to become a nuisance. [Ord. 18 of April 16, 1906, § 1]

12-105. Fires in streets and alleys. It shall be unlawful for any person to build a fire on any of the streets or alleys of the town unless by permission. [Ord. 22 of April 16, 1906, § 1]

12-106. Trees obstructing utility wires. The growing or permitting to grow of trees by the owner of adjacent or abutting property upon the streets of said town, or upon the sidewalks thereof, in such a manner as to obstruct the electric lights or telephone wires of said town is hereby declared to be a nuisance.

All trees upon the sidewalks or upon the streets of said town which so obstruct or interfere with the electric light or telephone wires shall be removed within a reasonable time after notification by the recorder to do so. Anyone failing to remove such trees after notice by the recorder to do so shall be guilty of a misdemeanor, and each day that a violation continues shall constitute a separate offence.

Provided, however, that anyone wishing to retain trees upon, abutting, or near his premises may apply to the Board of Mayor and Aldermen for permission to prune or trim such trees in lieu of pecuniary penalties in such manner as to prevent same from obstructing said electric lights or telephone wires, and said board may grant to the person permission to prune or trim said trees, but same shall be under the supervision of the board or the chief of police. [Ord. 49 of April 16, 1906, §§ 1, 2, and 3]

12-107. Procedure for special events. The sponsoring organization of any special event shall be responsible for the following:

(1) The preparation of a plan of the special event which is to be approved by the Board of Mayor and Aldermen and shall include the exact delineation of any streets, parks or other public rights-of-way to be closed or

used in any manner as part of the special event. This plan shall also address all other items listed in the Procedure for Special Events as adopted by the town.

(2) The acquisition of a special events permit to cover business authorized by the sponsor. The sponsor must be a tax exempt nonprofit organization as defined by the Tennessee Code Annotated. Such permits shall be limited to a period of not more than 14 consecutive days and shall amount to $50.00 for each sponsored event.

(3) The determination of all participants in the special events and the location of any booths, vending operation, stalls or other facility proposed to be used in the special event. No person shall knowingly join or participate in any special event in violation of any of the terms, conditions or regulations of the permit issued therefore, or knowingly join or participate in any event without the consent and over the objection of the permittee or in any manner interfere with the orderly conduct of such event.

(4) The acquisition of a blanket insurance policy to cover the eventuality of any liability which might be incurred during the special event. [Ord. of June 27, 1989]

12-108. Permits required for the exclusive use of any park or other municipal area. It shall be unlawful for any person, corporation or organization to conduct public meetings, assemblies, worship services, entertainment, demonstrations, or political rallies, within the general confines of a park or municipal area without a permit, issued by the town recorder, and shall be allowed only in those areas so designated by the permit. It is generally accepted that all park areas or municipal areas are open and accessible to, and maintained for, the general public at large. Prior to being issued a "municipal area permit," the person or organization requesting the permit shall post a $25.00 cash deposit with the town recorder to cover any cost to the town for clean-up of the area. Said deposit shall be returned to the permittee if no clean-up is required. [as added by Ord. #2000-15, Sept. 2000]

12-109. Fundraising roadblocks prohibited. All fundraising using roadblocks with personnel standing in open public streets within the corporate limits of the Town of Jonesborough is expressly prohibited. (as added by Ord. #2003-18, Oct. 2003)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

12-201. Permit required.
12-202. Applications.
12-203. Fee.
12-204. Deposit or bond.
12-205. Manner of excavating--barricades and lights--temporary sidewalks.
12-206. Restoration of streets, etc.
12-207. Insurance.
12-208. Time limits.
12-209. Supervision.
12-210. Driveway curb cuts.

12-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business and said permit shall be retroactive to the date when the work was begun. [Code of 1982]

12-202. 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 agreement that the applicant will comply with all ordinances and laws relating

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[1]Sections 12-201 through 12-209 in this chapter were taken substantially from the ordinance upheld by the Tennessee Supreme Court in the 1960 case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S. W. 2d 885.

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. [Code of 1982]

12-203. Fee. The fee for such permits shall be two dollars ($2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents ($0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars ($100.00) for any permit. [Code of 1982]

12-204. 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 twenty-five dollars ($25.00) if no pavement is involved or seventy-five dollars ($75.00) 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 said 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. [Code of 1982]

12-205. 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. [Code of 1982]

12-206. 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 the Town of Jonesborough shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the public works director 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. [Code of 1982]

12-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than $100,000 for each person and $300,000 for each accident, and for property damages not less than $25,000 for any one (1) accident, and a $75,000 aggregate. [Code of 1982]

12-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the 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. [Code of 1982]

12-209. Supervision. The public works director 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. [Code of 1982]

12-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the building inspector who will seek planning commission approval when deemed necessary. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to

pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge, and when two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend into the street. [Code of 1982]

CHAPTER 3

MAINTENANCE OF DRIVEWAY DRAINAGE CULVERTS

SECTION

12-301. Maintenance of residential driveway drainage culverts.
12-302. Maintenance of multi-family residential, commercial and industrial driveway drainage culverts.
12-303. Time limitations to make repairs on drainage culverts.

12-301. Maintenance of residential driveway drainage culverts. Where residential driveways cross streetside drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway, to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the town, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert. The installation of the replacement drainage culvert will be made by the Town of Jonesborough. The town shall determine drainage culvert location, alignment, material, size and length. [as added by Ord. #2000-13, Sept. 2000]

12-302. Maintenance of multi-family residential, commercial and industrial driveway drainage culverts. Where multi-family residential, commercial and industrial driveways cross streetside drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the director of public works or his designee, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert and for the installation of the drainage culvert. The director of public works or his designee shall determine drainage culvert location, alignment, material, size and length. [as added by Ord. #2000-13, Sept. 2000]

12-303. Time limitation to make repairs on drainage culverts. In the event a property owner is told by the director of public works or his designee that maintenance or replacement of the drainage culvert is required, the owner shall have sixty (60) days from the time notified by the department of public works to complete the required work. However, if the public welfare and health are endangered by a condition which needs to be corrected, the director of public works shall specify a time period less than sixty (60) days in which the work shall be completed. [as added by Ord. #2000-13, Sept. 2000]

CHAPTER 4

SPECIAL EVENTS

SECTION
12-401. General.
12-402. "Special event" defined.
12-403. Special event permit required.
12-404. Permit application procedure.
12-405. Insurance required.
12-406. Board approval required.
12-407. Fee for additional services.
12-408. Concession booths and vendors.
12-409. Sales tax.
12-410. Rules and regulations.
12-411. Enforcement.

12-401. General. Special events sponsored by local groups, associations or individuals and taking place within the town limits impact public safety, solid waste collection, use of public streets and/or right-of-ways but often celebrate heritage, enhance community spirit, improve quality of life, support economic development and provide educational opportunities. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-402. "Special event" defined. A "special event" is any occasion including but not limited to fairs, shows, exhibitions, city-wide celebrations, and festivals taking place within a specifically defined area of the Town of Jonesborough for a period of time. A special event may include the use of public facilities in the Town of Jonesborough, including, but not limited to parks, streets, alleys, sidewalks, or other municipal owned facilities, and which includes a general invitation to all members of the public to either participate in and/or view such event, or part thereof. Special events may be one-time or recurring occasions. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-403. Special event permit required. Whenever any person, group, association, club, business, firm or corporation desires to sponsor a "special event," such person, group, association, club, business, firm, or corporation shall first obtain a "special event permit" from the Town of Jonesborough. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-404. Permit application procedure. (1) Application. Special event permits will be issued only upon the submission of an application filed with the town recorder. Such application must contain the following information:

(a) Name, description, and purpose of event.

(b) Name and purpose of sponsoring organization.

(c) List of pre-events and post-events held in conjunction with the main event. (including parade, fireworks, etc.)

(d) Days and hours of events.

(e) Event boundary including a map with city streets showing requested including registration, tents, booths, food, office/ administration, etc.

(f) Estimated number expected to attend.

(g) Outline of publicity plan with examples of previous efforts, if available.

(h) Security plan, including crowd control, pedestrian safety, etc., and general request for public safety assistance.

(i) Emergency procedures, first aid services, and plan for appropriate emergency communication. Also include outline of activities involving moving vehicles and safety related procedures used to avoid or prevent injury.

(j) Names, street addresses and phone numbers including home phone, work phone and cell phone, and title/area of responsibility of at least two contacts with event sponsors.

(k) Proof of liability insurance, provided by insurance company and sent, if requested, directly by the carrier to the town recorder.

(l) A list of anticipated vendors and concession booths. A final revised list of vendors and concession booths shall be filed with the town recorder at least 48 hours before the event begins.

(m) Services provided by or through the event sponsor. List should include erection of temporary stages or facilities including tents, efforts to address refuse collection, security, etc.

(n) Services requested from the Town of Jonesborough including:

(i) Police and security

(ii) Refuse collection

(iii) Street cleaning

(iv) Event preparation/beautification

(v) Signage

(vi) Parking

(vii) Use of facilities, including days and hours, space and staffing needs.

(viii) Communication/publicity

(o) Detailed clean-up plan stating person or persons responsible, schedule, and any repairs or grounds remediation expected.

(p) The approximate number of citizens expected to either participate in and/or view the event.

(q) If street closure is requested, a complete listing of such streets or portions thereof, together with the dates and hours of closure.

(r) The payment of a $35.00 fee for processing the application.

(2) Hold harmless clause required. The special event sponsor shall hold the Town of Jonesborough harmless for any damages or injuries caused by any action or activities of the sponsoring organization. The sponsor shall sign a hold harmless clause approved in form by the town attorney.

(3) Town staff review. The request to hold a special event shall be reviewed by the appropriate town staff. Town staff will work with event sponsors to the extent necessary to clarify and resolve any issues or concerns. Any written comments resulting from the staff review shall be provided to the board of mayor and aldermen before board action is taken. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-405. Insurance required. (1) A special event permit will be issued by the town recorder only after the sponsor has presented the town recorder with a certificate of insurance, with the Town of Jonesborough named as an additional insured; protecting the town from any and all claims and liabilities arising out of the event, in an amount equal to the upper limits of liability the town is exposed to under the Tennessee Governmental Tort Liability Act at the time of the event.

(2) Insurance coverage shall include all activities and the individuals carrying them out as well as vendors permitted within the special event boundaries.

(3) Any individual or organization carrying out a special event activity within the special event boundary involving the general public, whether on public or private property, shall be covered by insurance with the minimum limits listed above. Proof of coverage shall be obtained through a permit issued through the special event sponsor or through a certificate of insurance provided by the carrier.

(4) Events sponsored by the town shall be covered under the town's general liability insurance policy. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-406. Board approval required. (1) Approval in part or whole. The board of mayor and aldermen shall review all requests for special events and the associated request for services. At least one of the designated contacts with the event sponsor shall be at the board meeting to answer questions and provide any additional information needed. The board may approve, reject or modify any request in whole or part.

(2) Schedule of approval. Although the board of mayor and aldermen may authorize the carrying out of an event at any time, the board will normally require documentation necessary for a request to be presented to the board for review a minimum of thirty-five (35) days in advance of the special event.

Special events sponsors should submit preliminary event plans with the information outlined in section (9) to the town administrator so the request can be reviewed by the appropriate town staff forty-five (45) days prior to the special event.

(3) Annual action required for recurring special events. Special events that are recurring require the annual approval of the board of mayor and aldermen. The permit application shall provide a schedule for the term of the special event within the special event permit request.

(4) Town sponsored special events. The board of mayor and aldermen may choose to sponsor a special event for any reason. Special events sponsored by the Town of Jonesborough may be approved by the board of mayor and aldermen, at its discretion, through the annual budget process or through the criteria established in this ordinance for all other special events. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-407. Fee for additional services. If the town determines that the special event is not expected to generate sufficient tax revenues sufficient to pay the town's expected costs for municipal services and utilities over and above the normal level of service provided to the general public, the town may charge the special event sponsor at rates for services rendered that are established by resolution of the board of mayor and aldermen. If the town chooses to levy a fee for additional services, the town shall estimate the fees for additional services which must be paid in advance of the issuance of the special event permit. Upon the conclusion of the special event, the town will itemize its fees for additional services actually provided and will bill the special event sponsor for any unpaid balance or refund any overpayment made. Fees levied for special services provided shall be due upon demand. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-408. Concession booths and vendors. (1) Definitions. (a) Goods, wares, merchandise shall include but not be limited to fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, crafts, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks.

(b) Vendor or concession booth means any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying, or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his person while on the public ways of the Town of Jonesborough. A vendor or concession

booth also includes any transient vendor, street vend, hawker, huckster, itinerant merchant, or persons or companies providing services for fees or other compensation.

(2) General. The special event sponsor shall be in charge of all concession booths and vendors. The sponsor shall determine what booths and vendors shall be allowed, and see that they comply with all ordinances, statutes, rules, and regulations, including, but not limited to, public health, safety requirements, and anti-discrimination laws. The special event sponsor shall also issue an identification badge to each vendor or concession booth operator.

(3) Vendors or concession booths shall not obstruct the entrance or display windows of fixed location businesses without the permission of the owner of the affected business. In no event shall a vendor or concession booth obstruct pedestrian access to other neighboring fixed located businesses.

(4) No vendor or concession booth shall be permitted to operate in the following areas of public space:

(a) Within ten (10) feet of any street intersection or pedestrian crosswalk, unless the street intersection is closed as part of the special event;

(b) Within five (5) feet of any driveway or loading zone;

(c) Within five (5) feet of any parking space or access ramp designated for persons with disabilities;

(d) Within ten (10) feet of a fire hydrant or fire escape. In no event, vendors or concession booths shall not obstruct public sidewalks.

(5) No vendors or concession booths shall be allowed within the boundary of the permitted special event without the approval of the special event sponsor or the board of mayor and aldermen.

(6) Vendors operating outside of a special event boundary must obtain a separate permit in the name of the vendor. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-409. Sales tax. Sales booths and/or activities, in which fees are charged, if allowed, shall be governed by the state flea market rules for license to sell. It shall be the responsibility of the special event sponsor to ensure that all individuals and groups permitted to conduct sales through the special event have paid any applicable local or state fee for sales, and to verify that all booths or fee generating activities are properly licensed. Upon request, permit and sales tax information for all permitted special event vendors and activities shall be provided to the town recorder within fifteen (15) days of the last day of the special event. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-410. Rules and regulations. (1) Alcoholic beverages. Alcoholic beverages of any kind in public use areas, which includes parks, public buildings, grounds, streets, sidewalks and other such public areas, are

prohibited except as may be authorized by permit under the ordinance of the town.

(2) Cancellation. The town reserves the right to cancel a special events permit if it is determined that the information provided is inaccurate or false, that the intended use is actually different than stated, or that the activities taking place create an unanticipated threat to public property or a public safety hazard.

(3) Compliance with town policies and ordinances and other laws. The event sponsor shall comply with all Jonesborough ordinances and policies and all local, state and federal laws, and will to the extent possible see that event participants comply as well.

(4) Fires. Fires or burning in the public areas within boundaries is prohibited. This restriction shall not apply to the use of grills or other such devices approved for use by vendors, or as specifically authorized in other designated areas through the special event application.

(5) Firearms. No person shall possess, carry or discharge any firearm, shotgun, rifle, pistol, bow and arrow, crossbow, blowgun, slingshot, BB gun, air gun, or paint gun in the special event boundary. This restriction shall not apply to duly authorized law enforcement officers acting in their official duty or to any town employee duly authorized by the Jonesborough Board of Mayor and Aldermen. The board of mayor and aldermen may permit the use of firearms in demonstration exercises, training supervised by qualified personnel, and may authorize "turkey shoots" or other such competitions or demonstrations of skill when the board determines such activity is in the public interest and the necessary safeguards for public safety are in place. "Firearm" means any device designed, made, or adopted to expel a projectile by the action of an explosive or any device readily convertible to do so.

(6) Fireworks, explosive devices. Fireworks, firecrackers, or any such explosive devices are prohibited from the special event area boundary. This restriction shall not apply to any explosive device utilized by duly authorized law enforcement officers acting in their official duties, or as a fireworks display or similar activity approved by the board of mayor and aldermen through the special event permit process.

(7) Non discrimination. It is the policy of the Town of Jonesborough to not discriminate against any person, group or organization based on the grounds of race, color, religion, gender, or national origin. Special event sponsors shall not discriminate against any person, group or organization based on the grounds of race, color, religion, gender, national origin except as may be allowed under state or federal law.

(8) Trash and refuse. Special event sponsors shall be responsible for picking up trash and refuse generated from their event in parks, parking lots and sidewalks. It is the responsibility of the special event sponsor to place trash and refuse collected in a location(s) approved by the public works director or town administrator. If proper disposal containers are not available, it shall be

the responsibility of the special event sponsor to collect trash and refuse and place it in a location that does not restrict normal activity but is also available for easy collection. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

12-411. Enforcement. Enforcement of permitting requirements outlined in this ordinance shall be the responsibility of the town recorder and the department of public safety. Any violation of these permitting requirements shall be a misdemeanor and subject to the fines associated thereof. (as added by Ord. #2000-14, Sept. 2000, and replaced by Ord. #2005-16, Aug. 2005)

CHAPTER 5

JONESBOROUGH TREE ORDINANCE

SECTION

12-501. Short title.
12-502. General purpose.
12-503. Definitions.
12-504. Applicability of ordinance.
12-505. Hazardous trees.
12-506. Coordination with town departments--notice requirements.
12-507. Supervision by urban forester.
12-508. Work undertaken by public utilities.
12-509. Work undertaken by private contractors.
12-510. License and insurance required.
12-511. License requirements--work undertaken by property owner.
12-512. Brush and limbs removed by contractor.
12-513. Harming public trees forbidden.
12-514. Permit required on public property.
12-515. Designation as heritage tree.
12-516. Permit required for heritage trees.
12-517. Tree topping prohibited in public area.
12-518. Trees in buffer zones, setbacks, and open spaces.
12-519. Comprehensive management plan/standards and guidelines.
12-520. Tree size specifications.
12-521. List of acceptable trees.
12-522. Community education.
12-523. No liability inferred.
12-524. Penalty.
12-525. Enforcement.
12-526. Severability.

12-501. Short title. This ordinance shall be named the Jonesborough Tree Ordinance. (as added by Ord. #2004-02, April 2004)

12-502. General purpose. The town recognizes that the urban forest of Jonesborough is a vital part of the community and wishes to ensure its citizens enjoy the right to the many benefits provided by public trees while being protected from the possible risk of personal injury and/or property damage due to improper care. It is the intent of this ordinance to preserve and protect the public health, safety and general welfare by regulating the planting, maintenance and removal of public and heritage trees and the removal or trimming of any trees and vegetation where a hazard exists; and it shall be the policy of the Town of Jonesborough to:

(1) Establish and maintain maximum tree cover.

(2) Maintain trees in a healthy condition through good tree maintenance and care practices.

(3) Establish and maintain trees of a diverse level of age and species.

(4) Promote conservation of tree resources.

(5) Select, locate and maintain trees appropriately to maximize benefits and minimize hazard, nuisance, hardscape damage, and maintenance costs.

(6) Focus tree management under one staff position having the necessary expertise to direct and carryout the program.

(7) Promote efficient and cost-effective management of the urban forest.

(8) Foster community support for the local urban forestry program and encourage good tree management on privately owned properties.

(9) Educate residents and town staff to proper tree maintenance techniques and practices.

(10) Organize and direct volunteer efforts to plant and maintain trees on public property.

(11) Locate and facilitate the designation of heritage trees.

(12) Protect specimen, heritage and landmark trees.

(13) Encourage the proper selection of trees and shrubs on private property and their proper maintenance and care through education, and to protect the health, safety and welfare of the general public through a minimum of regulation. (as added by Ord. #2004-02, April 2004)

12-503. Definitions. For the purposes of this ordinance, the following terms, phrases, and words and their derivations shall have the following meanings respectively described in this section:

(1) "Arborist." A person who is trained or competent in the practice of arboriculture;

(2) "Critical root zone." The area beneath a tree's canopy that falls within the tree's drip line;

(3) "DBH."" (Diameter at Breast Height) the diameter of a tree trunk measured at four (4) feet above grade;

(4) "Designed vegetation." Trees, shrubs, flowers, vines, ornamental grasses, and other like vegetation, whether planted or volunteer, that have been incorporated into the landscape design of a town park, right-of-way, or other public area;

(5) "Drip line." A continuous line which is the vertical projection of the outermost portion of the tree's canopy onto the ground;

(6) "Hardscape." The non-organic components of an urban landscape including, but not limited to, streets, gutters, curbs, sidewalks;

(7) "Hazardous tree and vegetation." Any tree or portion of tree or other such vegetation which because of condition, surroundings and/or tendency

to fail constitutes a risk to life, health or property; that has a limb or foliage that obstructs street lights, traffic signs or the free passage of pedestrians and/or vehicles; or that poses a threat to safety to persons, structures, vehicles or other trees and/or vegetation. Additionally, hazardous trees can be more specifically defined as:

(a) Any tree on public or private property whole limbs remain untrimmed so that there is not at least fourteen (14) feet of clearance above any public street or alley.

(b) Any tree on public or private property whose limbs remain untrimmed so that they obstruct the view of any traffic sign, signal or device for vehicular traffic in the direction controlled by that traffic sign, signal or device.

(c) Any tree with a documented disease that can easily infect other area trees and whose timely removal is recommended by the Tennessee Division of Urban Forestry as a necessary measure to prevent the spread of the disease.

(8) "Heritage trees." Conspicuous native or long established individual trees that are of unique historical, ecological, or aesthetic value and therefore constitute an important community resource that are designated to be heritage trees by the Jonesborough Tree and Townscape Board; or trees that have received the "Landmark and Historic Tree" designation by the Tennessee Urban Forestry Council.

(9) "Maintenance." All operations which might be performed on a tree, including, but not limited to, trimming, pruning, spraying, injecting, fertilizing, treating, bracing, cabling, and cutting either above or below the ground;

(10) "Park." Any open space or public areas open to the public designated as such by the town;

(11) "Person." Any individual, firm, partnership, association, corporation, company or organization of any kind;

(12) "Public area." All land, open space, and right-of-ways within the corporate limits of the Town of Jonesborough owned, leased, or otherwise held by the town, including parks, right-of-way for streets, alleys, sidewalks, utility lines, median strips; and areas around facilities;

(13) "Public tree." Any tree planted or growing in a public area;

(14) "Public utility company." (public utility) Any corporation, company, individual, contractor, association or cooperative that in some part is responsible for the provision and maintenance of electricity, gas, water, cable TV or other such similar service within the corporate limits of Jonesborough;

(15) "Standards and guidelines." Specific requirements for the planting, maintenance, cutting and pruning, etc. of trees and vegetation for work carried on by town crews or contractors within public areas. In absence of any specification or guideline adopted by the town, planting and maintenance standards established by the National Arborist Association, the American

Association of Nurseryman's American Standards for Nursery Stock, or the professional standards of the International Society of Arboriculture shall apply;

(16) "Top or topping." Severely cutting or trimming the branches and/or trunk of a tree in a manner that substantially reduces the overall size of the spatial area occupied by the tree, and destroys or dramatically diminishes the symmetrical appearance or natural shape of the tree, and may result in the removal of mature lateral branches;

(17) "Town." The Town of Jonesborough; its board of mayor and aldermen, administration, committees, and staff;

(18) "Tree." Any self-supporting woody plant growing above ten (10) feet at maturity that usually possesses one main trunk and produces a more or less distinct and elevated head with many branches;

(19) "Tree and townscape board." (townscape board) The board created by ordinance by the Jonesborough Board of Mayor and Aldermen responsible for overseeing landscape related activities within the Town of Jonesborough including tree planting and maintenance;

(20) "Urban forester." Person employed by the town to carryout tree and vegetation related activities as defined in the approved position description, or such other person designated by the board of mayor and aldermen to carry out the duties outlined; or a designee directed by the town administrator to carry out the duties outlined on a temporary basis in absence of the urban forester. (as added by Ord. #2004-02, April 2004)

12-504. Applicability of ordinance. All trees, shrubs and other vegetation, now existing or hereafter planted in any public area shall be the property of the town, and be subject to the provisions of this ordinance. (as added by Ord. #2004-02, April 2004)

12-505. Hazardous trees. No person shall harbor on their property any tree or vegetation that has been designated to be in a hazardous condition.

(1) Determination of hazardous tree or vegetation. The urban forester has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a hazardous tree or vegetation in order to make a determination if a hazardous condition exists and if corrective action is required.

(2) Removal or corrective action with hazardous trees and vegetation. The urban forester; upon determining that a tree or other vegetation has become hazardous as defined in this chapter, shall cause written notice of violation to be issued to the owner of the property upon which the tree or vegetation is determined to be in violation. Written notice shall be to the last recorded address on the tax notice and/or posted on the property and the notice shall include a description of the tree or vegetation in violation, the reasons the determination of being a hazard was reached, a statement of corrective

measures required, and a reasonable time period in which corrective action must be taken.

(a) Appeal. The owner of the property or their representative may file an appeal of the corrective action required by submitting within seven (7) days of receipt of a notice of violation a written request to appeal to the administrator's office at town hall in Jonesborough. Upon receipt of the request to appeal, a hearing shall be placed on the agenda of the next meeting of the Jonesborough Tree and Townscape Board. The tree and townscape board shall review all evidence presented by the owner, the urban forester and other pertinent individuals and any other relevant information and make a determination whether the notice of violation was justified. If the notice of violation (NOV) is upheld, a revised timetable shall be issued. The determination of the tree and townscape board reflected to the appeal shall be final.

(b) Failure to comply with the timetable specified within the written notice of violation shall constitute a violation of the ordinance unless an appeal is properly filed. Failure to comply with any timetable established as a result of the appeal process is also a violation of this ordinance. Upon failure to comply with the notice of violation, the urban forester shall have the authority to initiate immediate corrective action. Upon taking corrective action, the urban forester may bill the owner for the expense of the corrective action taken and/or assess the costs thereof against the property.

(c) Upon the judgment of the urban forester, public safety director, or public works director that an immediate and eminent threat to the health, safety and welfare to the general public exists and upon attempting to communicate with the owner, the town may remove or trim such tree or vegetation to the extent necessary to eliminate the immediate hazard without providing written notice to the owner. Documented costs of the corrective action taken may be charged to the owner and/or assessed against the property. (as added by Ord. #2004-02, April 2004)

12-506. Coordination with town departments - notice requirements. Prior to the commencement of any town related work impacting trees and/or vegetation, the department concerned shall give notice outlining the proposed project in sufficient detail and providing a sufficient amount of time to enable the town's urban forester to inspect the work site, evaluate the degree of risk of injury and submit to the party responsible for work to be undertaken instructions designed to protect to the extent possible any trees or designed vegetation at risk. (as added by Ord. #2004-02, April 2004)

12-507. Supervision by urban forester. The urban forester shall be responsible for reviewing, preparing comments related to, and supervising all

proposed municipal tree care operations and site plan work, and the carrying out of activities intended to accomplish the purposes of this ordinance. To enable the urban forester to carry out his/her duties, the public works director, recreation director, water distribution superintendent, and other departments that might be undertaking activities affecting trees or vegetation, shall coordinate with the urban forester prior to commencing with any public work that might require the removal of or cause injury to a public tree or its root system. When and as appropriate, the urban forester shall advise and/or supervise town work crews about matters relating to the planting, maintenance, removal and protection of public trees and/or designed vegetation. In general, the urban forester shall have supervisory responsibility for all municipal tree care and site plan work, and authority and duty to inspect such work, to the end that all work done under the supervisory authority of the urban forester shall be in full compliance with his/her instructions. The following town activities shall require coordination with the urban forester when undertaken within the corporate limits:

(1) Plans to install water and sewer lines, curbs, gutters, sidewalks, driveways, walkways or other improvements that might cause injury to public trees. Where sidewalk, curb, gutter, utility, or street damage occurs due to tree roots, every effort shall be made to correct the problem without removing the tree. The urban forester shall be responsible for developing or approving corrective measures in consultation with town and/or agency supervisory personnel.

(2) Planting maintenance, protection and all other work pertinent to public trees.

(3) Contractors hired by the town to perform any of the activities such as water and sewer work or other such activity outlined in § 12-507(1) of this chapter, shall comply with any or all requirements to coordinate work impacting trees and designed vegetation within the town limits prior to beginning work; and to perform any and all requirements for planting, maintenance, removal and protection of trees and designed vegetation as required by the urban forester. Regardless of the use of contractors by the town, it shall be the responsibility of the appropriate department head to adhere to all notification requirements outlined in this section. (as added by Ord. #2004-02, April 2004)

12-508. Work undertaken by public utilities. Work undertaken by public utilities or their agents in public areas in Jonesborough shall only occur upon the issuance of a permit by the public works director or under policies established by the board of mayor and aldermen. Permits and policies established shall detail specific expectations for the trimming of trees and vegetation impacted by the construction of the utilities or in their ongoing maintenance. It is the intent of this section that construction and maintenance activities minimally impact existing trees and that tree maintenance

undertaken is done with the proper techniques and care. (as added by Ord. #2004-02, April 2004)

12-509. Work undertaken by private contractors. Work undertaken by private contractors that may impact the health and welfare of trees and vegetation in public areas shall not commence until a permit has been issued by the urban forester with the following exceptions:

(1) Work done along street shoulders and right-of-ways that are not within a park, public building grounds or a landscaped area designed by the town.

(2) Work done in a beauty spot area that is being undertaken under a pre-approved maintenance plan.

(3) Any work undertaken by a continuing authorization either through policy established by the board of mayor and aldermen or a previous permit issued by the urban forester. (as added by Ord. #2004-02, April 2004)

12-510. License and insurance required. It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vegetation within the corporate limits of the Town of Jonesborough without first producing evidence of a Jonesborough business license and proof of liability insurance in the minimum amount of $1,000,000 for bodily injury or death and $100,000 property damage indemnifying the town or any person injured or damaged as result of said activities. A person undertaking planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees or shrubs in public areas within the corporate limits shall be required to show proof of workers compensation insurance at the least minimum amount required by the State of Tennessee. After a business license is obtained, the town recorder's office shall provide a copy of the Jonesborough Tree Ordinance and the current Jonesborough Brush Collection Policy to contractors and have them sign a form verifying that they have received said information.

The following activities by a business person are exempt from the license and insurance requirements outlined in this section:

(1) Persons only in the business of yard mowing, weedeating, raking, fertilizing, weeding as other such similar activity typical of yard maintenance and care.

(2) Individuals contracting labor and services who are exempt from obtaining any business license. (as added by Ord. #2004-02, April 2004)

12-511. License requirements - work undertaken by property owner. Planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees or shrubs by a property owner , their employees or other such individuals not in the tree maintenance and care business, on his/her own property may be

undertaken without proof of license or insurance. (as added by Ord. #2004-02, April 2004)

12-512. Brush and limbs removed by contractor. Trunks, limbs and/or brush generated by tree maintenance performed by a contractor or other such person engaged in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs, or vegetation shall be chipped or removed from the property and taken to an appropriate disposal site by said contractor. It shall be a violation of this ordinance for any contractor to leave limbs or brush to be removed by the town without written approval in advance; by the director of public works. Each day limbs are left out in violation of this ordinance shall constitute a separate violation. Limbs and brush generated from trees or shrubs within the corporate limits may be taken by the contractor to the Jonesborough Composting and Recycling Center during normal business hours at the current rate for disposal, if there is any charge. (as added by Ord. #2004-02, April 2004)

12-513. Harming public trees forbidden. It shall be a violation of this ordinance for any person to attach, nail, or place a sign, poster, rope or wire (other than one used as part of an approved tree maintenance); handbill or other such displayed item on a tree growing in a public area. In addition, it shall be a violation to fill or cut the soil within the drip line of a tree within a public area without the approval of the urban forester or without said activity being part of a pre-approved maintenance program authorized by the tree and townscape board. (as added by Ord. #2004-02, April 2004)

12-514. Permit required on public property. No person, unless expressly authorized hereunder, shall plant, remove, cut, trim, prune, spray or provide on-going maintenance to any street tree or any tree, plant or shrub in public parks, public building grounds, or designed vegetation areas without a permit issued by the urban forester or designee. The urban forester shall use the following criteria in determining if a permit should be issued:

(1) The work to be undertaken is clearly defined.

(2) There is a need for the proposed work on the tree; the work to be undertaken is justified.

(3) The work will be performed by qualified and competent personnel.

(4) Proper attention has been given to safety and risk management.

The urban forester or designee may waive permitting in any individual location for sites approved through the Jonesborough Beauty Spot Program or through an on-going maintenance program previously approved by the tree and townscape board. (as added by Ord. #2004-02, April 2004)

12-515. Designation as heritage tree. The Jonesborough Tree and Townscape Board shall establish criteria for the designation of heritage trees.

The criteria developed shall include the voluntary cooperation of the property owner on which the tree is located. (as added by Ord. #2004-02, April 2004)

12-516. Permit required for heritage trees. A permit from the urban forester is required before any tree maintenance is undertaken on a tree formally designated as a heritage tree. (as added by Ord. #2004-02, April 2004)

12-517. Tree topping prohibited in public areas. Tree topping, as defined in § 12-503 of this chapter, is prohibited in public areas without the written approval of the urban forester, and the practice is expressly discouraged on private property as well. Utility line maintenance involving trees on public right-of-ways without the approval of the urban forester or under a pre-approved agreement will be restricted to the extent allowed under state law. (as added by Ord. #2004-02, April 2004)

12-518. Trees in buffer zones, setbacks, and open spaces. Trees that are located within the setbacks, buffer strip areas, drainage ways, designated open space areas, or other such required or dedicated spaces or areas within a development, as defined in the Jonesborough Stormwater Management, Erosion and Sedimentation Control Ordinance in § 11-203 shall not be cut or otherwise damaged or destroyed without the formal approval of the Jonesborough Planning Commission. Developers, as defined in § 11-203 of the stormwater management, erosion and sedimentation control ordinance, must show why it is necessary to remove trees in areas where tree and landscape plantings are required in §§ 11-610 -- 11-614 of the Jonesborough Landscape Ordinance. (as added by Ord. #2004-02, April 2004)

12-519. Comprehensive management plan/standards and guidelines. The Jonesborough Tree and Townscape Board under the guidance of the urban forester shall develop and adopt an urban forest management plan for town owned properties which shall include:

(1) A clear concise and comprehensive statement of policies and objectives,

(2) A set of standards and guidelines for the planting, maintenance and protection of trees, plants and shrubs in public areas,

(3) Inventory of existing trees in public areas,

(4) Identification of planting sites,

(5) Planting priorities.

(6) Street tree renewal plan. (as added by Ord. #2004-02, April 2004)

12-520. Tree size specifications. Trees planted as a requirement through the Jonesborough Landscape Ordinance or through an approved plan in public areas shall meet the size requirements specified in § 11-608 of the Landscape Ordinance. (as added by Ord. #2004-02, April 2004)

12-521. List of acceptable trees. As a general rule, trees planted in developments as defined in 11-203 of the Jonesborough Landscape and Stormwater ordinances, and trees planted in public areas should be indigenous or native, non-invasive, not particularly susceptible to insects and disease, long-living and require little care. A list of acceptable trees will be prepared by the urban forester or his/her designee, approved by the tree and townscape board, and maintained by the building inspector. As stated in § 11-608(2) of the Landscape Ordinance, trees not found on the list of acceptable species will not be counted toward the required plantings unless presented to the planning commission for approval (initially through tree and townscape board) with documentation from a landscape architect or other similarly trained specialist, justifying the species proposed. (as added by Ord. #2004-02, April 2004)

12-522. Community education. The tree and townscape board through the assistance of the urban forester, the local extension service, soil conservation service and other agencies, shall develop and present workshops to the general public to educate the residents of Jonesborough as well as contractors, engineers, surveyors, merchants, students, etc. and the various aspects of best management practices related to tree planting, care, maintenance, and protection. (as added by Ord. #2004-02, April 2004)

12-523. No liability inferred. Nothing contained in this chapter shall be deemed to impose any liability upon the town, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant on his/her property on under his/her control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street or public area. (as added by Ord. #2004-02, April 2004)

12-524. Penalty. Any person who violates any provision of this chapter shall be guilty of a misdemeanor punishable by a fine not to exceed the limits of state law, with each and everyday constituting a separate offense. (as added by Ord. #2004-02, April 2004)

12-525. Enforcement. The Jonesborough Public Safety Director and Jonesborough Building Inspector, and the Jonesborough Urban Forester or his/her designee are hereby charged with the responsibility for the enforcement of this ordinance and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the town attorney is hereby authorized to institute appropriate proceedings to that end. (as added by Ord. #2004-02, April 2004)

12-526. Severability. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validly of the ordinance as a whole or any part thereof than the part held to be invalid. (as added by Ord. #2004-02, April 2004)

CHAPTER 6

JONESBOROUGH HERITAGE TREE PROGRAM

SECTION

12-601. Creation of Jonesborough Heritage Tree Program.
12-602. Program purpose.
12-603. Intent to incorporate a conservation easement pursuant to T.C.A. 66-9-301 in heritage tree program.
12-604. Jonesborough Tree and Townscape Board to recommend policies and oversee program.
12-605. Limitation on funds designed for use in the heritage tree program.

12-601. Creation of Jonesborough Heritage Tree Program. There shall be a Jonesborough Heritage Tree Program ("the program") established by the board of mayor and aldermen and overseen through the Jonesborough Tree and Townscape Board. Rule making authority shall remain vested in the board of mayor and aldermen which will approve all policy and regulatory decisions within the program. (as added by Ord. #2005-08, March 2005)

12-602. Program purpose. The purpose of the Jonesborough Heritage Tree Program is to contribute to the welfare and aesthetics of the community and retain the great historical and environment value of those trees falling under the program. (as added by Ord. #2005-08, March 2005)

12-603. Intent to incorporate a conservation easement pursuant to T.C.A. 66-9-301 in heritage tree program. It is the intent of the board of mayor and aldermen to incorporate a conservation easement as provided for in Tennessee Code Annotated, § 66-9-301 et. seq. into each agreement with a property owner under the Jonesborough Heritage Tree Program to insure appropriate levels of control on behalf of the town and to provide the property owner with a level of incentive to participate in the program. (as added by Ord. #2005-08, March 2005)

12-604. Jonesborough Tree and Townscape Board to recommend policies and oversee program. It shall be the responsibility of the Jonesborough Tree and Townscape Board to develop and oversee the Jonesborough Heritage Tree Program and recommend to the board of mayor and aldermen a heritage tree designation criteria for use in determining what constitutes a heritage tree under the program, a process for nomination of a heritage tree, any sponsorship fees, a form of conservation easements, both the town's and property owner's responsibilities under the program, and other aspects of the program the tree and appearance board request be incorporated into the guidelines of the program. Additionally, the tree and townscape board shall recommend changes from time to time in the policy governing the heritage tree fund to the board of mayor and aldermen. (as added by Ord. #2005-08, March 2005)

12-605. Limitation on funds designated for use in the heritage tree program. Only funds deposited in the heritage tree fund will be available for use by the program and no other town funds may be obligated for use by the program except by ordinance or by other action of the board of mayor and aldermen. The board of mayor and aldermen will adopt from time to time a set of regulations and rules regarding expenditures and solicitation of funds for the heritage tree fund. (as added by Ord. #2005-08, March 2005)

TITLE 13

UTILITIES AND SERVICES[1]

CHAPTER
1. WATER AND SEWERS.
2. SEWER USE AND WASTEWATER TREATMENT.
3. CABLE TELEVISION.
4. TELECOMMUNICATIONS.
5. STREET LIGHTING.
6. GAS.

CHAPTER 1

WATER AND SEWERS

SECTION
13-101. Application and scope.
13-102. Definitions.
13-103. Obtaining service.
13-104. Application and contract for service.
13-105. Connection requirements within town limits.
13-106. Services charges for temporary service.
13-107. General water main and sewer line extension policies.
13-108. Water main and sewer line sizes.
13-109. Jonesborough water main installations in subdivisions and platted areas.
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13-111. Governing authority.
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13-115. Meter tests.
13-116. Schedule of rates.
13-117. Multiple services through a single meter.
13-118. Billing.
13-119. Discontinuance or refusal of service.
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13-121. Termination of service by customer.

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[1]See title 4 in this code for the building and utility codes; see title 8 for provisions relating to cross-connections, connections to public sewers, etc.

13-122. Access to customers' premises.
13-123. Inspections.
13-124. Customer's responsibility for system's property.
13-125. Customer's responsibility for violations.
13-126. Supply and resale of water.
13-127. Unauthorized use of or interference with water supply.
13-128. Fire hydrant classification and usage.
13-129. Damages to property due to water pressure.
13-130. Liability for cutoff failures.
13-131. Restricted use of water.
13-132. Interruption of service.
13-133. Fluoridation of water supply.

13-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. [Code of 1982]

13-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(4) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(5) "Premises" means any structure or group of structures operated as a single business or enterprise; provided, however, the term "premises" shall not include more than one (1) dwelling. [Code of 1982]

13-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the town before connection or meter installation orders will be issued and work performed. [Code of 1982]

13-104. Application and contract for service. Each prospective customer desiring water and/or sewer service from the Town of Jonesborough shall be required to sign a standard service agreement before service is supplied. If a service fee has been established for water and/or sewer service, the current service fee shall be paid before any provision of service is initiated. If, for any reason, a customer, after signing a contract for service and paying any

associated service fee, does not take such service by reason of not occupying the premises or otherwise, the customer shall forfeit the service fee paid.

The receipt of a prospective customer's application for service and any applicable service fee shall not obligate the town to render the service applied for. If the service applied for cannot be supplied by the town in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any service fee paid by such applicant. Despite receiving an application for service and an associated application fee, the town may refuse service to any applicant that has previously been a customer of the Jonesborough Water and Sewer systems who has an unpaid balance due on the previous account. No action on the new service request shall take place until the previous balance due has been paid or satisfied. (Code of 1982, as replaced by Ord. #2002-05, March 2002, Ord. #2005-15, Aug. 2005, and Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***)

13-105. Connection requirements within town limits. (1) When water or sewer service has been extended to within five hundred feet (500') of an existing premises within the Jonesborough town limits, said premises shall be expected to connect to the town's water and/or sewer services. Any new construction within the Jonesborough town limits in which water and/or sewer services are required by building code, and the premises to be constructed will be located within five hundred feet (500') of existing water or sewer services, the new premise shall be connected to the town's water and/or sewer service, with the exemption addressed in § 13-105(2). Connection to available water and/or sewer service within the Jonesborough townlimits is required without a variance or exception issued by the Jonesborough Board of Mayor and Aldermen. Unless exempted by the town board or in § 13-105(2), the town shall charge minimum bills to persons in premises in which water and/or sewer service is available within five hundred feet (500') and no application for service has been initiated or service requested.

(2) Single tracts of land within the town limits of Jonesborough that are twenty (20) acres or more in size are exempt from the mandatory connection to the town's water and/or sewer systems, and the associated minimum billing requirements, on the following conditions:

(a) The owner of the property is requesting the exemption from connecting to the town's water or sewer services, and the owner is constructing only one (1) new single-family structure on the property in which well and septic service is desired.

(b) The Washington County Health Department approves the use of a well and construction of a septic system to serve the residence constructed.

(c) The twenty plus (20+) acre tract is used in some way for agricultural purposes.

(d) If the property is subdivided where any or all resulting parcels are less than twenty (20) acres, the parcels less than twenty (20) acres must comply with the five hundred foot (500') connection requirements in § 13-105(1) including any existing structure on a well and septic system.

(e) If the owner of a twenty plus (20+) acre property requests water and/or sewer service that is within five hundred feet (500') of the premise on the parcel, both water and sewer must be connected if both are available.

(f) Any request meeting the above criteria can result in an exemption issued through the Jonesborough Building Inspector. Any request for well and/or septic service not meeting the above criteria must be approved by the Jonesborough Board of Mayor and Aldermen to be exempt from the connection requirements in this chapter. [Code of 1982, as replaced by Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***]

13-106. Services charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. [Code of 1982, as replaced by Ord. #94-02, Jan. 1994; amended by Ord. #94-07, April 1994, and replaced by Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***]

13-107. General water main and sewer line extension policies. All proposed extensions to the Jonesborough Water System and/or the Jonesborough Sewer Collection System must meet requirements established by the Jonesborough Board of Mayor and Aldermen under separate system extension policies. All water line and sewer line extensions requested outside of town limits of Jonesborough must be approved for service by the Jonesborough Board of Mayor and Aldermen. Any financial terms associated with water or sewer line extensions shall be established by the board of mayor and aldermen in the separate extension policies that may be changed from time to time by the town board. The following also applies:

(1) Extensions of Jonesborough water or sewer service in subdivisions or businesses must be approved by the applicable planning commission.

(2) The Jonesborough Board of Mayor and Aldermen reserves the right to make exceptions to the current water and sewer extension policies when the town board determines it is in the best interest of the general public or the economic stability of the town to make one (1) or more exceptions involving a service or extension request. In such situations in which an exception is considered, the exception will be acted upon as a designated agenda item in a meeting receiving adequate notice, and the reason(s) for the exception are identified.

(3) Certain projects involving the extension of water and/or sewer services provided by the Town of Jonesborough that through the funding received target certain population groups such as low-moderate income persons. In such occasions, when the project is authorized by the Jonesborough Board of Mayor and Aldermen the conditions in which services are made available to customers within the project area will comply with the funding requirements.

(4) Water and sewer line construction that will become part of the Jonesborough water or sewer system must be constructed only under the specifications and oversight of the Jonesborough Water and Sewer Systems. [Code of 1982, as replaced by Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***]

13-108. Water main and sewer line sizes. (1) Unless approved otherwise by the Jonesborough Water System, all water line extensions will be six inch (6") diameter ductile iron pipe. Smaller pipe sizes may be authorized in extensions less than five hundred feet (500") when no future line extension is feasible.

(2) Sewer collection line sizes shall be determined by the director of environmental services based on sewer drainage basin sizes and possible future development, as well as potential users.

(3) The Jonesborough Water System may, at its option, require the construction of mains larger than six inches (6") in diameter. In such cases, a negotiated amount for the additional cost of construction due to the increased line size will be mutually determined in advance prior to construction. [Code of 1982, as replaced by Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***]

13-109. Jonesborough water main installations in subdivisions and platted areas. (1) Before the water mains within a subdivision or platted area are approved by the town, the site plan and preliminary plat shall have been approved by the Jonesborough Regional Planning Commission if it is within the Jonesborough planning region, by the Johnson City Regional Planning Commission if within Johnson City's planning region, or by the Washington County Planning Commission.

(2) The sub-divider shall meet the requirements of the Jonesborough Water Line Extension Policy, and, if required, be approved for the extension by the Jonesborough Board of Mayor and Aldermen. Any exceptions to the extension policy must be authorized by the town board. [Code of 1982, as replaced by Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***]

13-110. Sewer main extensions in subdivisions and platted areas. Sewer line extensions shall be made under the terms of the separate sewer line extension policy adopted by the Jonesborough Board of Mayor and Aldermen, and will be required to the meet the same requirements for water line extensions outlined in § 13-109 for subdivision and platted areas. [Code of 1982, as replaced by Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***]

13-111. Governing authority. The authority to make or authorize waster and/or sewer line extensions under the preceding sections or under the terms of the separate water and sewer line extension policies is permissive only, and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. [Code of 1982, as replaced by Ord. #2016-08, Aug. 2016 ***Ch12_04-09-18***]

13-112. Utility lines to be underground. All extensions of public utility lines installed within the town limits shall be placed underground. [Ord. of April 10, 1972]

13-113. Sewer tap; fee. All persons connecting to sewers shall pay a fee of two thousand dollars ($2,000.00) for the privilege of each tap, plus a twenty-five dollar ($25.00) inspection fee, payable in advance with the following exceptions:

(1) The board reserves the right to reduce sewer tap fees to seven hundred dollars ($700.00) in a project area involving new sewer construction with said discounted fee to be available only through the end of construction. "End of construction" shall be defined as the point the collection lines are completely installed and functional and the right-of-way areas have been leveled and been re-landscaped or sown in grass.

(2) The board reserves the right to establish a sewer tap payment plan in project areas involving new sewer construction for residents of said project areas that desire installment payments; provided that interest is charged at the prevailing interest rate, which is defined as a Treasury Bill plus one percent (1%), and the term of the plan shall not exceed five (5) years. Sewer tap payment plans shall be available to all residents in a designated project area up to a period of twelve (12) months from the end of construction.

(3) Multi-family units inside the town limits shall pay the applicable single dwelling rate of two thousand dollars ($2,000.00) for the first unit plus an additional one thousand dollars ($1,000.00) for each additional unit. Each building of an apartment complex will be considered as a new initial tap and be charged the applicable first unit rate of two thousand dollars ($2,000.00). There will be a twenty-five dollar ($25.00) inspection fee per building.

(4) Sewer taps made to households outside the town limits of the town shall pay a fee of three thousand three hundred dollars ($3,300.00) for the privilege of each tap, payable in advance. There will be a twenty-five dollar ($25.00) inspection fee per household. Multi-family units outside shall pay the applicable single dwelling rate of three thousand three hundred dollars ($3,300.00) for the first unit plus an additional one thousand six hundred fifty dollars ($1,650.00) for each additional unit. Each building of an apartment complex will be considered as a new initial tap and be charged the applicable first unit rate of three thousand three hundred dollars ($3,300.00) outside. There will also be a twenty-five dollar ($25.00) inspection fee per building.

(5) Sewer taps for industrial/commercial buildings such as factories, warehouses, shopping centers shall pay two thousand dollars ($2,000.00) for structures up to ten thousand (10,000) square feet plus one thousand five hundred dollars ($1,500.00) for each additional ten thousand (10,000) square feet or portion thereof. Motels/hotels shall pay the same sewer tap fees as charged multi-family units. Sewer taps for a car wash structure shall pay two thousand dollars ($2,000.00) for the first bay and one thousand five hundred dollars ($1,500.00) for each additional bay. The town reserves the right to surcharge industrial users for any treatment activity that is above the normal requirements for household treatment, or requires pre-treatment. A twenty-five dollar ($25.00) inspection fee will be charged per building for sewer conncetions. [Ord. of Jan. 23, 1973, §§ 1(c) and 2(b) and (c), as replaced by Ord. #92-05, April 1992; Ord. #94-06, April 1994; amended by Ord. #96-17, § I, Oct. 1996; replaced by Ord. #97-12, June 1997; and Ord. #99-08, July 1999; and amended by Ord. #2001-06, July 2001, and Ord. #2006-06, Aug. 2006]

13-114. Meters. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. [Code of 1982]

13-115. Meter tests. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	4%

The town will also make tests or inspections of its meters at the request of the customer. Any test or inspection made by the town upon request of the customer will be charged to said customer at the rate of ten dollars ($10.00) per test or inspection. [Code of 1982, as modified by Ord. of June 12, 1989]

13-116. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the town may from time to time adopt by appropriate ordinance or resolution.[1] [Code of 1982]

13-117. Multiple services through a single meter. No customer shall supply water or sewer service to more than one (1) dwelling or premises from a single service line and meter without first obtaining approval of a multi-service application from the town. Approval will not be granted in locations in which service lines and meters can be easily installed through the town's normal connection policies and procedures.

Where the town allows more than one (1) dwelling or premises to be served through a single service line and meter, a minimum bill will be charged for each dwelling or premises in determining the total charge computed through the town's applicable water rates schedule. The minimum bills and applicable charges will be added together into one (1) bill, and the sum thereof shall be billed to the customer in whose name the service is supplied. It shall be the responsibility of the customer in whose name the service is supplied to pay the amounts due as required in § 13-118.

The town will take no responsibility for resolving any disputes between customers arising from the multiple services through a single meter.

When the town discovers that multiple services through a single meter exist that have not been properly reported and billed from the Jonesborough Water Department, the town may take immediate action to amend the billing to include multiple minimum bills and the current service charge for reworking the account. The town may also disconnect service until the proper application has been completed and approved. (Code of 1982, as replaced by Ord. #2003-19, Oct. 2003, and amended by Ord. #2008-10, Oct. 2008)

13-118. Billing.[2] (1) Billing for residential water and sewer services will be rendered monthly and both charges will be collected as a unit, except as provided for in § 13-118(5) below. Payments shall be made at the water department or other locations designated by the board of mayor and aldermen within ten (10) days of date of bill.

(2) Bills for commercial and industrial services may be rendered weekly, semi-monthly, or monthly, at the option of the town and may be paid as specified for residential bills.

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[1]Administrative ordinances and resolutions are of record in the recorder's office. User rate established by #B-06-02 (July 10, 2006) are available in the office of the recorder.

[2]See Ord. #B-06-01 (July 10, 2006) which provides for the user rates for garbage collection and also provides that this rate is "to be billed along with the water bill."

(3) Both water and sewer charges shall be collected as a unit; no town employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer services charges owned by such customer, except as provided for in § 13-118(5) below. Water and/or service may be discontinued for non-payment of the combined bill. Failure to receive a bill will not release a customer from payment obligation.

(4) Should the final date of payment of a bill without proceeding to cut off water service being initiated fall on a Saturday, Sunday, or holiday, the business day next following the due date will be held as a day of grace for delivery of payment.

(5) In such situations in which the town has installed either water or sewer lines, and a resident chooses not to connect to the line and the board of mayor and aldermen has determined that all households capable of being served by the line shall pay fees to help defray the cost of installation and maintenance regardless of actual connection, billing for water shall be the minimum bill if water is not connected, and sewer shall be billed by the water usage if water is connected and sewer is not, or by the minimum bill for sewer if neither water nor sewer is connected. Jonesborough will not connect sewer service to a household not on the Jonesborough Water System without specific approval of the connection and billing arrangement by the board of mayor and aldermen.

(6) If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, or if weather or other circumstances prohibit the town from reading meters on any given month, or if the board so chooses, the town reserves the right to render an estimated bill based on the best information available.

(7) The water department will recheck meter and meter reading at the request of customer. If said recheck shows the meter reading to be correct and the meter shows no malfunction, no adjustment will be made to the customer's bill and a recheck charge of five dollars ($5.00) will be paid by the customer. In the event of misreadings or malfunction, an adjustment shall be made to the customer's bill and no charge for the recheck shall be made. The only exception will be when a customer discovers a leak in their line and a one (1) time adjustment for that leak shall be made.

(8) Bills paid on or before the final day of payment shall be payable at the net rate, but thereafter the gross rates shall apply, which is an additional ten percent (10%) of the current month's bill. However, bills that have reached the gross amount may only be paid at the water department office.

(9) A bad check charge of thirty dollars ($30.00) will be made to the customer for each check returned for insufficient funds.

(10) Water customers served by the Jonesborough Sewer System that have individual residential pools not connected to the sewer system may receive a sewer billing adjustment the month their pool is filled. The sewer billing adjustment is made by averaging the previous year's usage, and the adjustment will only be made:

(a) Once a year;

(b) At the request by the owner;

(c) Upon verification that the pool is present and operational; and

(d) To pools constructed under a proper building permit. (Ord. of Feb. 28, 1984; as amended by Ord. of March 11, 1985; and Ord. of June 27, 1989, and replaced by Ord. #2002-05, March 2002, and Ord. #2005-15, Aug. 2005, and amended by Ord. #2006-06, Aug. 2006, and Ord. #2007-05, April 2007)

13-119. Discontinuance or refusal of service. The town shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(1) These rules and regulations.

(2) The customer's application for service.

(3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only such customer or tenant.

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (Code of 1982, as replaced by Ord. #2005-15, Aug. 2005)

13-120. Cut offs and reconnection. (1) In the event a bill is not paid by the due date, the following day a written cut-off notice will be sent advising the customer that their service will be discontinued if the bill in arrears is not paid within ten (10) days of the date of the notice.

(2) In the event that service is discontinued, a lock shall be placed on the meter. A service charge of forty dollars ($40.00) plus the entire bill must be paid before service is restored. Any person who tampers with the lock or meter or has an illegal cross-connection from the town's main line is subject to legal action.

If, after water service has been discontinued, a customer removes a lock or tampers with a meter or assembly in order to illegally obtain water from the town's system without paying the past due bill and any remaining service charges, or having some written agreement with the town allowing water service to be continued and the meter is removed, then an additional two hundred fifty dollar ($250.00) meter re-installation fee will be charged to the customer. The entire bill, including the forty dollar ($40.00) re-connect charge and the two hundred fifty dollar ($250.00) re-installation fee must be paid before water service is restored. This re-installation fee does not take the place of or restrict

the town in any way from taking legal action against the customer in violation for water theft.

(3) If customer does not make payment, notify the water department of dispute of bill, or make other arrangements acceptable to the water department by last date of payment, water department will proceed on schedule with termination.

(4) Failure to receive cut-off notice will not release customer from termination of services. (Ord. of May 11, 1985, modifying Ord. of Feb. 28, 1984, as replaced by Ord. #2005-15, Aug. 2005, and amended by Ord. #2006-06, Aug. 2006, Ord. #2009-06, May 2009, and Ord. #2018-08, May 2018 ***Ch13_03-08-21***)

13-121. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. [Code of 1982]

13-122. Access to customers' premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customer's plumbing and premises generally in order to secure compliance with these rules and regulations. [Code of 1982]

13-123. Inspections. The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating buildings and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. [Code of 1982]

13-124. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. [Code of 1982]

13-125. Customer's responsibility for violations. Where the town furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. [Code of 1982]

13-126. Supply and resale of water. All water shall be supplied within the town exclusively by the town and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the town. [Code of 1982]

13-127. Unauthorized use of or interference with water supply. No person shall turn on or turn off or in any way interfere with any of the town's meters, stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. Interference with the town's water system without authorization is deemed a misdemeanor by the board of mayor and aldermen and subject to prosecution. [Code of 1982]

13-128. Fire hydrant classification and usage. (1) Fire hydrants in the Jonesborough Water Distribution System shall be classified in accordance with their rated capacities (at 20 psi residual pressure) as follows:

Class AA: Rated capacity of 1500 gpm or greater
Class A: Rated capacity of 1000 gpm to 1499 gpm
Class B: Rated capacity of 500 gpm to 999 gpm
Class C: Rated capacity of less than 500 gpm

(2) The tops and nozzle caps of Jonesborough Water System fire hydrants shall be painted with the following capacity-indicating color scheme:

Class AA: Blue
Class A: Green
Class B: Orange
Class C: Red

(3) Class C fire hydrants are restricted hydrants and may be used to fill tanker trucks used in fire suppression efforts. However, it shall be unlawful to connect a pumper truck to a Class C fire hydrant.

(4) Before fire hydrants are installed or removed from the Jonesborough Water Distribution System, the Jonesborough Fire Department shall be notified of the proposed installation or removal.

(5) Limited use of unmetered private fire lines. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (Code of 1982, as amended by Ord. #2000-09, July 2000, and Ord. #2011-17, Nov. 2011)

13-129. Damages to property due to water pressure. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. [Code of 1982]

13-130. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main. Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained, and is kept properly drained, after his water service has been cut off. [Code of 1982]

13-131. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. [Code of 1982]

13-132. Interruption of service. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. [Code of 1982]

13-133. Fluoridation of water supply. The water department is hereby authorized and instructed to make plans for the fluoridation of the water supply of the town; to submit such plans to the Department of Public Health of the State of Tennessee for approval, and upon approval to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water department. [Ord. of April 11, 1978, §§ 1 and 2]

CHAPTER 2

SEWER USE AND WASTEWATER TREATMENT

SECTION

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13-201. Purpose and policy. This chapter sets forth uniform requirements for users of the wastewater facilities for the Town of Jonesborough and enables the town to comply with all applicable state and federal laws, including the State Pretreatment Requirements (Tennessee Rule 0400-40-14), the Clean Water Act (33 U.S.C. §§ 1251, et seq.) and the General Pretreatment Regulations (40 CFR part 403). The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the wastewater facilities that will interfere with its operation;

(2) To prevent the introduction of pollutants into the wastewater facilities that will pass through the wastewater facilities, inadequately treated, into receiving waters, or otherwise be incompatible with the wastewater facilities;

(3) To protect both wastewater facilities personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) To promote reuse and recycling of industrial wastewater and sludge from the wastewater facilities;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the wastewater facilities; and

(6) To enable the town to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the wastewater facilities is subject.

This chapter shall apply to all users of the wastewater facilities. The chapter authorizes the issuance of individual wastewater discharge permits or general permit; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. dated 8-21-87, as replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-202. Abbreviations. The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD - Biochemical Oxygen Demand.
BMP - Best Management Practice.
BMR - Baseline Monitoring Report.
CFR - Code of Federal Regulations.
CIU - Categorical Industrial User.
COD - Chemical Oxygen Demand.
DES - Director of Environmental Services.
EPA - U.S. Environmental Protection Agency.
gpd - gallons per day.
IU - Industrial User.
mg/l - milligrams per liter.

NPDES - National Pollutant Discharge Elimination System.
NSCIU - Non-Significant Categorical Industrial User.
RCRA - Resource Conservation and Recovery Act.
SIU - Significant Industrial User.
SNC - Significant Noncompliance.
TSS - Total Suspended Solids.
U.S.C. - United States Code.
WWF - Wastewater Facilities. (Ord. dated 8-21-87, as amended by Ord. #94-06, April 1994, and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-203. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251, et seq.

(2) "Approval authority." The Tennessee Division of Water Resources Director or his/her representative(s)

(3) "Authorized or duly authorized representative of the user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities; provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in subsections (3)(a) to (3)(c) above may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town of Jonesborough.

(4) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees Centigrade (20ºC), usually expressed as a concentration (e.g., mg/l).

(5) "Best Management Practices" or "BMPs." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 13-205(1) and (2), and Tennessee Rule 0400-40-14-.05(1)(a) and (2). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Categorical pretreatment standard or categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

(7) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(8) "Town." Town of Jonesborough or board/BMA: board of mayor and aldermen.

(9) "Chemical Oxygen Demand" or "COD." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(10) "Control authority." The Town of Jonesborough

(11) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(12) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where "daily maximum limits" are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where "daily maximum limits" are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(13) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the regional administrator, or other duly authorized official of said agency.

(14) "Existing source." Any source of discharge that is not a "new source."

(15) "Grab sample." A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(16) "Indirect discharge" or "discharge." The introduction of pollutants into the WWF from any non-domestic source.

(17) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(18) "Interference." A discharge that, alone or in conjunction with a discharge or. discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(19) "Local limit." Specific discharge limits developed and enforced by the Town of Jonesborough upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 0400-40-14-.05(1)(a) and (2).

(20) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(21) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(22) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(23) "New source."

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the

extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a "new source" if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (23)(a)(i) or (23)(a)(ii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a "new source" as defined under this section has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used, in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection (23)(c)(ii).

(24) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(25) "Pass through." A discharge which exits the WWF into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town of Jonesborough's NPDES permit, including an increase in the magnitude or duration of a violation.

(26) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

(27) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(28) "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(29) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the WWF. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(31) "Pretreatment standards" or "standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(32) "Prohibited discharge standards" or "prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 13-205.

(33) "Significant Industrial User (SIU)." Except as provided in subsections (33)(c) and (33)(d) below, a "significant industrial user" is:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the WWF (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the WWF treatment plant; or

(iii) Is designated as such by the Town of Jonesborough on the basis that it has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement,

(c) The Town of Jonesborough may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless

specifically included in the pretreatment standard) and the following conditions are met:

(i) The industrial user, prior to the Town of Jonesborough finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(ii) The industrial user annually submits the certification statement required in § 13-244(2) (see Tennessee Rule 0400-40-14-.12(17)), together with .any additional information necessary to support the certification statement; and

(iii) The industrial user never discharges any untreated concentrated wastewater.

(d) Upon a finding that a user meeting the criteria in subsection (33)(b) above has no reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement, the Town of Jonesborough may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 0400-40-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(34) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 13-205 of this chapter. A "slug discharge" is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the WWF's regulations, local limits or permit conditions.

(35) "Wastewater Facilities" or "WWF." All treatment facilities, as defined by section 212 of the Act (33 U.S.C. § 1292), which is owned by the Town of Jonesborough. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

(36) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(37) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(38) "Stormwater." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(39) "Director of Environmental Services" or "DES." The person designated by the Town of Jonesborough to supervise the operation of the WWF, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the board of mayor and aldermen.

(40) "Total Suspended Solids" or "Suspended Solids" or "TSS." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(41) "User" or "industrial user." A source of indirect discharge.

(42) "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the WWF.

(43) "Wastewater treatment plant" or "treatment plant." That portion of the WWF which is designed to provide treatment of municipal sewage and industrial waste. (Ord. dated 8-21-87, as amended by Ord. #94-06, April 1994, replaced by Ord. #2002-03, March 2002, amended by Ord. #2002-10, June 2002, and replaced by Ord. #2011-14, Oct. 2011, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-204. (Reserved.) (Ord. dated 8-21-87, as amended by Ord. #92-10, July 1992, and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)[1]

13-205. Prohibited discharge standards. (1) General prohibitions. No user shall introduce or cause to be introduced into the WWF any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the WWF whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) Specific prohibitions. No user shall introduce or cause to be introduced into the WWF the following pollutants, substances, or wastewater:

(a) Pollutants which create a fire or explosive hazard in the WWF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (140ºF) (sixty degrees Centigrade (60ºC)) using the test methods specified in 40 CFR § 261.21;

(b) Wastewater having a pH less than 5.5 or more than 9.5, or otherwise causing corrosive structural damage to the WWF or equipment;

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the WWF resulting in interference but in no case solids greater than one and one-half inch(es) (1-1/2");

(d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the WWF;

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[1]Ordinance 2011-14, Oct. 2011 omitted the text for § 13-204.

(e) Wastewater having a temperature that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (104ºF) (forty degrees Centigrade (40ºC));

(f) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems;

(h) Trucked or hauled pollutants, except at discharge points designated by the DES in accordance with § 13-214 of this chapter;

(i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Town of Jonesborough NPDES permit;

(k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(l) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director of environmental services;

(m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(n) Medical wastes, except as specifically authorized by the director of environmental services in an individual wastewater discharge permit or a general permit;

(o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(p) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the WWF;

(q) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l; and/or

(r) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the WWF, or at any point in the WWF, of more than ten percent (10%) or any single reading over ten percent (10%) of the lower explosive limit of the meter.

Pollutants, substances, or wastewater prohibited by this chapter shall not be processed or stored in such a manner that they could be discharged to the WWF. (Ord. dated 8-21-87, as amended by Ord. #94-06, April 1994, and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-206. National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405-471.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director of environmental services may impose equivalent concentration or mass limits in accordance with §§ 13-206(5) and 13-206(6).

(2) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director of environmental services may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

(3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director of environmental services shall impose an alternate limit in accordance with Tennessee Rule 0400-40-14-.06(5).

(4) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following subsections.

(a) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this chapter. Any industrial user wishing to obtain credit for intake pollutants must make application to the Town of Jonesborough. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of subsection (2) above are met

(b) Criteria.

(i) Either:

(A) The applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or

(B) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

(ii) Credit for generic pollutants such as Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), and oil and

grease should not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(iii) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

(iv) Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water, as that into which the WWF discharges. The Town of Jonesborough may waive this requirement if it finds that no environmental degradation will result.

(5) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the town convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the DES. The town may establish equivalent mass limits only if the industrial user meets all the conditions set forth in §§ 13-206(5)(a)(i) through 13-206(5)(a)(v) below.

(a) To be eligible for equivalent mass limits, the industrial user must:

(i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

(ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

(iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

(iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(v) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

(b) An industrial user subject to equivalent mass limits must:

(i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(iii) Continue to record the facility's production rates and notify the DES whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in § 13-206(5)(a)(iii) of this section. Upon notification of a revised production rate, the DES will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to § 13-206(5)(a)(i) above so long as it discharges under an equivalent mass limit.

(c) When developing equivalent mass limits, the DES:

(i) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated, process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

(ii) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(iii) May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to § 13-210. The industrial user must also be in compliance with § 13-269 regarding the prohibition of bypass.

(6) The DES may convert the mass limits of the categorical pretreatment standards of 40 CFR parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the DES.

(7) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(8) Many categorical pretreatment standards specify one (1) limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four (4) day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(9) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the DES within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the DES of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate. (Ord. dated 8-21-87, as amended by Ord. #94-06, April 1994, and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-207. State pretreatment standards. Users must comply with State of Tennessee Pretreatment Standards codified at Tennessee Rule 0400-40-14 to state statute or law. (Ord. Dated 8-21-87, as amended by Ord. #92-10, July and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-208. Local limits. The Town of Jonesborough is mandated by our NPDES permit to monitor the pass through limits for some or all of the pollutants listed below, and may need to establish local limits for pollutants not listed below. The municipality may also establish Best Management Practices (BMPs) to control certain pollutants. The Town of Jonesborough will provide public notice and an opportunity to respond to interested parties (40 CFR § 403.5(c)(3)). This requirement applies whether local limits are set by ordinance or on a case-by-case basis. The Town of Jonesborough has developed protection limits and local limits based on the pass through limits and will apply them to IU's on a case-by-case basis.

(1) The DES is authorized to establish local limits pursuant to Tennessee Rule 0400-40-14-.05(3).

(2) The following pollutant local limits are established to protect against pass through and interference. The following list of pollutants has been established by the town's NPDES permit and may not be limited only to these pollutants. No person shall discharge wastewater containing in excess of the following:

	Monthly Average (mg/l)	Daily Maximum (mg/l)
Copper	8.52	17.04

	Monthly Average (mg/l)	Daily Maximum (mg/l)
Chromium	6.75	13.50
Nickel	4.89	9.77
Cadmium	0.46	0.92
Lead	4.48	8.96
Mercury	0.03	0.06
Zinc	2.77	5.55
Silver	0.52	1.04
Cyanide	1.76	3.52
Toluene	3.82	7.64
Benzene	0.23	0.45
1,1,1-Trichloroethane	4.50	9.01
Ethylbenzene	0.71	1.43
Carbon Tetrachloride	27.07	54.13
Chloroform	3.94	7.88
Tetrachloroethylene	2.50	5.00
Trichloroethylene	1.80	3.59
1,2-Transdichloroethylene	0.13	0.25
Methylene Chloride	1.69	3.38
Phenol	7.08	14.17
Naphthalene	0.20	0.40
Total Phthalates	2.91	5.81
Oil and Grease	n/a	100.00
CBOD	per industrial user permit	
Total Suspended Solids	per industrial user permit	

The above limits apply at the point where the wastewater is discharged to the collection system. All concentrations for metallic substances are for total metal unless indicated otherwise. The DES may impose mass limitations in addition to the concentration-based limitations above.

(3) The DES may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits or general permits, to implement local limits and the requirements of § 13-205. (Ord. dated 8-21-87, as replaced by Ord. #2003-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-209. Town of Jonesborough right of revision. The town reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent standards or requirements on discharges to the WWF consistent with the purpose of this chapter. (Ord. dated 8-21-87, as amended by Ord. #94-06, April 1994, and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-210. Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. DES may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate. (Ord. dated 8-21-87, as amended by Ord. #94-06, April 1994, and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-211. Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 13-205 of this chapter within the time limitations specified by EPA, the state, or the Town of Jonesborough, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to Town of Jonesborough for review, and shall be acceptable by Town of Jonesborough before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the town under the provisions of this chapter. (Ord. dated 8-21-87, as amended by Ord. #96-22, Dec. 1996, and replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-212. Additional pretreatment measures. (1) Whenever deemed necessary, DES may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WWF and determine the user's compliance with the requirements of this chapter.

(2) The DES may require any person discharging into the WWF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a general permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of DES, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Town of Jonesborough, shall comply with the town's oil and grease management ordinance, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with the town's oil and grease management ordinance by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. (Ord. dated 8-21-87, as replaced by Ord. #2002-03, March 2002, and Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-213. Accidental discharge/slug discharge control plans. The DES shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The DES may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the DES may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the DES of any accidental or slug discharge, as required by § 13-236 of this chapter; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency

response. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-214. Hauled wastewater. (1) Septic tank waste may be introduced into the WWF only at locations designated by the DES, and at such times as are established by the DES. Such waste shall not violate § 13-205 through 13-210 of this chapter or any other requirements established by the town. The DES may require septic tank waste haulers to obtain individual wastewater discharge permits or general permits.

(2) If sewer needs to be hauled by the Town of Jonesborough in a pump and haul situation a request must be made to the town no less than forty-five (45) days prior to the service needed. The Town of Jonesborough will be responsible for requesting a pump and haul permit from TDEC. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-215. Wastewater analysis. When requested by DES, a user must submit information on the nature and characteristics of its wastewater within fourteen (14) days of the request. The DES is authorized to prepare a form for this purpose and may periodically require users to update this information. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-216. Individual wastewater discharge permit and general permit requirement. (1) No significant industrial user shall discharge wastewater into the WWF without first obtaining an individual wastewater discharge permit or a general permit from the Town of Jonesborough, except that a significant industrial user that has filed a timely application pursuant to § 13-217 of this chapter may continue to discharge for the time period specified therein.

(2) The DES may require other users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this chapter.

(3) Any violation of the terms and conditions of an individual wastewater discharge permit or a general permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 13-210 through 13-212 of this chapter. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-217. Individual wastewater discharge and general permitting: existing connections. Any user required to obtain an individual wastewater discharge

permit or an effective date of this chapter and who wishes to continue such discharges in the future shall, within forty-five (45) days after said date, apply to the DES for an individual wastewater discharge permit or a general permit in accordance with § 13-219 of this chapter, and shall not cause or allow discharges to the WWF to continue after forty-five (45) days of the effective date of this chapter except in accordance with an individual wastewater discharge permit or a general permit issued by the DES. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-218. Individual wastewater discharge and general permitting: new connections. Any user required to obtain an individual wastewater discharge permit or a general permit who proposes to begin or recommence discharging into the WWF must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or general permit, in accordance with § 13-219 of this chapter, must be filed at least forty-five (45) days prior to the date upon which any discharge will begin or recommence. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-219. Individual wastewater discharge and general permit application contents. (1) All users required to obtain an individual wastewater discharge permit or a general permit must submit a permit application.

(2) Users that are eligible may request a general permit under § 13-220. The DES may require users to submit all or some of the following information as part of a permit application:

(a) Identifying information.

(i) The name and address of the facility, including the name of the operator and owner.

(ii) Contact information, description of activities, facilities, and plant production processes on the premises.

(b) Environmental permits. A list of any environmental control permits held by or for the facility.

(c) Description of operations.

(i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the WWF.

(iii) Number and type of employees, hours of operation, and proposed or actual hours of operation.

(iv) Type and amount of raw materials processed (average and maximum per day).

(v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(d) Time and duration of discharges.

(e) The location for monitoring all wastes covered by the permit.

(f) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the WWF from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 13-206(3) (Tennessee Rule 0400-40-14-.06(5)).

(g) Measurement of pollutants.

(i) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the DES, of regulated pollutants in the discharge from each regulated process.

(iii) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 13-240 of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the DES or the applicable standards to determine compliance with the standard.

(v) Sampling must be performed in accordance with procedures set out in § 13-241 of this chapter.

(h) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on § 13-234(2), Tennessee Rule 0400-40-14-.12(5)(b).

(i) Any request to be covered by a general permit based on § 13-220.

(j) Any other information as may be deemed necessary by the DES to evaluate the permit application.

(k) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-220. Wastewater discharge permitting: general permits. (1) At the discretion of the DES, the DES may use general permits to control SIU discharges to the WWF if the following conditions are met. All facilities to be covered by a general permit must:

(a) Involve the same or substantially similar types of operations;

(b) Discharge the same types of wastes;

(c) Require the same effluent limitations;

(d) Require the same or similar monitoring; and

(e) In the opinion of the DES, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(2) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with § 13-234(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the WWF deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the DES has provided written notice to the SIU that such a waiver request has been granted in accordance with § 13-234(2).

(3) The DES will retain a copy of the general permit, documentation to support the WWF's determination that a specific SIU meets the criteria in § 13-220(1)(a) to (e) and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(4) They may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined wastestream formula (§ 13-206(3)) or net/gross calculations (§ 13-206(4)). (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-221. Application signatories and certifications. (1) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 13-244(1).

(2) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the DES prior to or together with any reports to be signed by an authorized representative.

(3) A facility determined to be a non-significant categorical industrial user by the DES pursuant to § 13-203(33)(c) must annually submit the signed certification statement in § 13-244(2). (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-222. Individual wastewater discharge and general permit decisions. The DES will evaluate the data furnished by the user and may require additional information. Within forty-five (45) days of receipt of a complete permit application, the DES will determine whether to issue an individual wastewater discharge permit or a general permit. The DES may deny any application for an individual wastewater discharge permit or a general permit. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-223. Individual wastewater discharge and general permit duration. An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or a general permit may be issued for a period less than five (5) years, at the discretion of the DES. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-224. Individual wastewater discharge permit and general permit contents. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the DES to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the WWF.

(1) Individual wastewater discharge permits and general permits must contain:

(a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(b) A statement that the wastewater discharge permit is nontransferable without prior notification to the town in accordance with § 13-227 of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(c) Effluent limits, including best management practices, based on applicable pretreatment standards;

(d) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants or best management practice to be monitored,

sampling location, sampling frequency, and sample type based on federal, state, and local law.

(e) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with § 13-234(2).

(f) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(g) Requirements to control slug discharge, if determined by the director of environmental services to be necessary.

(h) Any grant of the monitoring waiver by the DES (§ 13-234(2)) must be included as a condition in the user's permit or other control mechanism.

(2) Individual wastewater discharge permits or general permits may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(b) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WWF;

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the WWF;

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(g) A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and

(h) Other conditions as deemed appropriate by the DES to ensure compliance with this chapter, and state and federal laws, rules,

and regulations. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-225. Permit issuance process. (1) Public notification. All records pertaining to industrial user permits are public record and can be reviewed at the office of the DES. The only items that may be restricted are anything pertaining to trade secrets or to a proprietary process. If someone wishes to review permits, a request must be submitted in writing and an appointment made with the DES.

(2) Permit appeals. The DES shall provide public notice of the issuance of an individual wastewater discharge permit or a general permit. Any person, including the user, may petition the DES to reconsider the terms of an individual wastewater discharge permit or a general permit within thirty (30) days of notice of its issuance.

(a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(b) In its petition, the appealing party must indicate the individual wastewater discharge permit or a general permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit or a general permit.

(c) The effectiveness of the individual wastewater discharge permit or a general permit shall not be stayed pending the appeal.

(d) If the DES fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit or a general permit, not to issue an individual wastewater discharge permit or a general permit, or not to modify an individual wastewater discharge permit or a general permit shall be considered final administrative actions for purposes of judicial review.

(e) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit or general permit decision must do so by filing a complaint with the appropriate legal authorities for proper jurisdiction within the State of Tennessee Statute of Limitations. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-226. Permit modification. (1) The DES may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(c) A change in the WWF that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the town's WWF, town personnel, or the receiving waters;

(e) Violation of any terms or conditions of the individual wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 0400-40-14-.13;

(h) To correct typographical or other errors in the individual wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 13-227.

(2) The DES may modify a general permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) A change in the WWF that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(c) To correct typographical or other errors in the individual wastewater discharge permit; or

(d) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 13-227. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-227. Individual wastewater discharge permit and general permit transfer. Individual wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least forty-five (45) days advance notice to the DES and the DES approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the DES must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit or coverage under the general permit void as of the date of facility transfer. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-228. Individual wastewater discharge permit and general permit revocation. The DES may revoke an individual wastewater discharge permit or coverage under a general permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the DES of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the DES of changed conditions pursuant to § 13-235 of this chapter;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports and certification statements;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the DES timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the general permit or this chapter.

Individual wastewater discharge permits or coverage under general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits or general permits issued to a user are void upon the issuance of a new individual wastewater discharge permit or a general permit to that user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-229. Individual wastewater discharge permit and general permit reissuance. A user with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit or general permit. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-230. Regulation of waste received from other jurisdictions. (1) If another municipality, or user located within another municipality, contributes wastewater to the WWF, the DES shall enter into an inter-municipal agreement with the contributing municipality.

(2) Prior to entering into an agreement required by subsection (1) above, the DES shall request the following information from the contributing municipality:

(a) A description of the quality and volume of wastewater discharged to the WWF by the contributing municipality;

(b) An inventory of all users located within the contributing municipality that are discharging to the WWF; and

(c) Such other information as the DES may deem necessary.

(3) An inter-municipal agreement, as required by subsection (1) above shall contain the following conditions:

(a) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits, including required Baseline Monitoring Reports (BMRs), which are at least as stringent as those set out in § 13-208 of this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the town's ordinance or local limits;

(b) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(c) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit or general permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the DES; and which of these activities will be conducted jointly by the contributing municipality and the DES;

(d) A requirement for the contributing municipality to provide the DES with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(e) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the WWF;

(f) Requirements for monitoring the contributing municipality's discharge;

(g) A provision ensuring the DES access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the DES; and

(h) A provision specifying remedies available for breach of the terms of the inter-municipal agreement. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-231. Baseline monitoring reports. (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 0400-40-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the DES a report which contains the information listed in subsection (2) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the DES a report which contains the information listed in subsection (2) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below.

(a) All information required in §§ 13-219(1)(a)(i), 13-219(1)(b), 13-219(1)(c)(i), and 13-219(1)(f).

(b) Measurement of pollutants.

(i) The user shall provide the information required in § 13-219(1)(g)(i) through (iv).

(ii) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this section.

(iii) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 0400-40-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 400-40-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority;

(iv) Sampling and analysis shall be performed in. accordance with § 13-240;

(v) The DES may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures; and

(vi) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 13-203(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 13-232 of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with this chapter and signed by an authorized representative as defined in § 13-203(3). (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-232. Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 13-231(2)(d) of this chapter:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine (9) months;

(3) The user shall submit a progress report to the DES no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the DES. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-233. Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the DES a report containing the information described in §§ 13-219(1)(f) and (g)

and 13-231(2)(b) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 13-206, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 13-244(1) of this chapter. All sampling will be done in conformance with § 13-241. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-234. Periodic compliance reports. (1) All significant industrial users must, at a frequency determined by the DES submit no less than twice per year on the dates specified in their permit, reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the DES or the pretreatment standard necessary to determine the compliance status of the user.

(2) The town may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user (see Tennessee Rule 0400-40-14-.l2(5)(b)). This authorization is subject to the following conditions:

(a) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility; provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(b) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than three (3) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. (See § 13-219(1)(h).)

(c) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(d) The request for a monitoring waiver must be signed in accordance with § 13-203(3) and include the certification statement in § 13-244(1) (Tennessee Rule 0400-40-14-.06(1)(b)2).

(e) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(f) Any grant of the monitoring waiver by the DES must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the DES for three (3) years after expiration of the waiver.

(g) Upon approval of the monitoring waiver and revision of the user's permit by the DES, the industrial user must certify on each report with the statement in § 13-244(3) below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

(h) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of § 13-234(1), or other more frequent monitoring requirements imposed by the DES, and notify the DES.

(i) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(3) All periodic compliance reports must be signed and certified in accordance with § 13-244(1) of this chapter.

(4) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(5) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the DES, using the procedures prescribed in § 13-241 of this chapter, the results of this monitoring shall be included in the report. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-235. Reports of changed conditions. Each user must notify the DES of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) days before the change.

(1) The DES may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 13-219 of this chapter.

(2) The DES may issue an individual wastewater discharge permit or a general permit under § 13-229 of this chapter or modify an existing wastewater discharge permit or a general permit under § 13-226 of this chapter in response to changed conditions or anticipated changed conditions. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-236. Reports of potential problems. (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the WWF, the user shall immediately telephone and notify the DES of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five (5) days following such discharge, the user shall, unless waived by the DES, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (1) above. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.

(4) Significant industrial users are required to notify the DES immediately of any changes at its facility affecting the potential for a slug discharge. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-237. Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to, the DES as the DES may require. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-238. Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the DES within twenty-four (24) hours of becoming aware of the violation. The user shall also

repeat the sampling and analysis and submit the results of the repeat analysis to the DES within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the town performs sampling at the user's facility at least once a month, or if the town performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the town receives the results of this sampling, or if the town has performed the sampling and analysis in lieu of the industrial user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

12-239. Notification of the discharge of hazardous waste. (1) Any user who commences the discharge of hazardous waste shall notify the WWF, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the WWF of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other), if the user discharges more than one hundred (100) kilograms of such waste per calendar month to the WWF, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this subsection (1) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 13-235 of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 13-231,13-233, and 13-234 of this chapter.

(2) Dischargers are exempt from the requirements of subsection (1) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the DES, the

EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-240. Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the DES or other parties approved by EPA. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-241. Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(1) Except as indicated in subsections (2) and (3) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the DES. Where time-proportional composite sampling or grab sampling is authorized by the Town of Jonesborough, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the town, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(3) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in §§ 13-231 and 13-233 Tennessee Rule 0400-40-14-.12(2) and (4), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the DES may authorize a lower minimum. For the reports required by § 13-234 (Tennessee Rule 0400-40-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by applicable pretreatment standards and requirements. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-242. Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-243. Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 13-208(3). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the DES. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-244. Certification statements. (1) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 13-221; users submitting baseline monitoring reports under § 13-231(2)(e); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 13-233; users submitting periodic compliance reports required by § 13-234(1)

to (3), and users submitting an initial request to forego sampling of a pollutant on the basis of § 13-234(2)(d). The following certification statement must be signed by an authorized representative as defined in § 13-203(3):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible forgathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user by the DES pursuant to §§ 13-203(33)(c) and 13-221(3) must annually submit the following certification statement signed in accordance with the signatory requirements in § 13-203(3). This certification must accompany an alternative report required by the DES:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR____, I certify that, to the best of my knowledge and belief that during the period from_____ to _____,_____[months, days, year]:

(i) The facility described as_____[facility name] met the definition of a Non-Significant Categorical Industrial User as described in 13-203(33)(c);

(ii) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(iii) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period."

(3) Certification of pollutants not present. Users that have an approved monitoring waiver based on § 13-234(2) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR_____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of_____[list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 13-234(1)." (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-245. Right of entry: inspection and sampling. The DES shall have the right to enter the premises of any user to determine whether the user is

complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the DES ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the DES shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The DES shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The DES may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the DES and shall not be replaced. The costs of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the DES access to the user's premises shall be a violation of this chapter. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-246. Search warrants. If the DES has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Jonesborough designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the DES may seek issuance of a search warrant from the appropriate court of the State of Tennessee. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-247. Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the DES's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the DES, that the release of such information would divulge information, processes, or methods of production

entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR § 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-248. Publication of users in significant noncompliance. The DES shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the Town of Jonesborough, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall be applicable to all significant industrial users (or any other industrial user that violates subsections (3), (4) or (8) below) and shall mean:

(1) "Chronic violations of wastewater discharge limits," defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in §§ 13-205 to 13-210;

(2) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 13-203(17) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by §§ 13-205 to 13-210 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the DES determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the DES's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of best management practices, which the DES determines will adversely affect the operation or implementation of the local pretreatment program. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-249. Notification of violation. When the DES finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the DES may serve upon that user a written notice of violation. Within three (3) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the DES. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the DES to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-250. Consent orders. The DES may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 13-252 and 13-253 of this chapter and shall be judicially enforceable. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-251. Show cause hearing. The DES may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the DES and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the

proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 13-203(3) and required by § 13-221(1). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-252. Compliance orders. When the DES finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the DES may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-253. Cease and desist orders. When the DES finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the DES may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-254. Administrative fines. (1) When the DES finds that a user has violated, or continues to violate, any provision of this chapter, an individual

wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the DES may fine such user in an amount not to exceed maximum fine allowed under state law. Such fines shall be assessed on a per-violation, per-day basis, in the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(2) Unpaid charges and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property shall be sought for unpaid charges and penalties.

(3) Users desiring to dispute such fines must file a written request for the DES to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the DES may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The DES may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-255. Emergency suspensions. The DES may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The DES may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the WWF, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the DES may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWF, its receiving stream, or endangerment to any individuals. The DES may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the DES that the period of endangerment has passed, unless the termination proceedings in this chapter are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the DES prior to the date of any show cause or termination hearing under §§ 13-251 or 13-256 of this chapter. Nothing in

this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-256. Termination of discharge. In addition to the provisions in § 13-228 of this chapter, any user who violates the following conditions is subject to discharge termination:

(1) Violation of individual wastewater discharge permit or general permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(5) Violation of the pretreatment standards in §§ 13-205 to 13-210 of this chapter. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 13-251 of this chapter why the proposed action should not be taken. Exercise of this option by the DES shall not be a bar to, or a prerequisite for, taking any other action against the user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-257. Injunctive relief. When the DES finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the DES may petition the appropriate court through the town's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, the general permit, order, or other requirement imposed by this chapter on activities of the user. The DES may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-258. Civil penalties. Violations, administrative civil penalty, under the authority of Tennessee Code Annotated, § 69-3-125:

(1) Any person including, but not limited to industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(a) Unauthorized discharge, discharging without a permit;

(b) Violates an effluent standard or limitation;

(c) Violates the terms or conditions of a permit;

(d) Fails to complete a filing requirement;

(e) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(f) Fails to pay user or cost recovery charges; or

(g) Violates a final determination or order of the local hearing authority or the local administrative officer.

(2) Any administrative civil penalty must be assessed in the following manner:

(a) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(b) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(c) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(d) In assessing the civil penalty the local administrative officer may consider the following factors:

(i) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(ii) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(iii) Cause of the discharge or violation;

(iv) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(v) Effectiveness of action taken by the violator to cease the violation;

(vi) The technical and economic reasonableness of reducing or eliminating the discharge; and

(vii) The economic benefit gained by the violator.

(e) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(3) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(4) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(5) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-259. Criminal prosecution. Judicial proceedings and relief. Under the authority of Tennessee Code Annotated, § 69-3-127: The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-260. Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The DES may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the DES may take other action against any user when the circumstances warrant. Further, the DES is empowered to take more than one (1) enforcement action against any noncompliant user. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-261. Penalties for late reports. A penalty of one hundred dollars ($100.00) per day shall be assessed to any user for each day that a report required by this chapter, a permit or order issued hereunder is late, beginning five (5) days after the date the report is due and higher penalties may also be

assessed where reports are more than thirty (30) days late. Actions taken by the DES to collect late reporting penalties shall not limit the DES's authority to initiate other enforcement actions that may include penalties for late reporting violations. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-262. Performance bonds. The DES may decline to issue or reissue an individual wastewater discharge permit or a general permit to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the town, in a sum not to exceed a value determined by the DES to be necessary to achieve consistent compliance. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-263. Liability insurance. The DES may decline to issue or reissue an individual wastewater discharge or a general permit to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the WWF caused by its discharge. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-264. Payment of outstanding fees and penalties. The DES may decline to issue or reissue an individual wastewater discharge permit or a general permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-265. Water supply severance. Whenever a user has violated or continues to violate any provision of this chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-266. Public nuisances. A violation of any provision of this chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby

declared a public nuisance and shall be corrected or abated as directed by the DES. Any person(s) creating a public nuisance shall be subject to the provisions of Jonesborough Municipal Code §§ 8-301 through 8-311 governing such nuisances, including reimbursing Town of Jonesborough for any costs incurred in removing, abating, or remedying said nuisance. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-267. Upset. (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (3) below are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred and the user can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(c) The user has submitted the following information to the DES within twenty-four (24) hours of becoming aware of the upset if this information is provided orally. A written submission must be provided within three (3) days:

(i) A description of the indirect discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or

an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-268. Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 13-205(1) of this chapter or the specific prohibitions in § 13-205(2) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town of Jonesborough was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-269. Bypass. (1) For the purposes of this section:

(a) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(b) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3) and (4) below.

(3) Bypass notifications.

(a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the DES, at least ten (10) days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the DES of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the

bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The DES may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Bypass.

(a) Bypass is prohibited, and the DES may take an enforcement action against a user for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The user submitted notices as required under subsection (3) above.

(b) The DES may approve an anticipated bypass, after considering its adverse effects, if the DES determines that it will meet the three conditions listed in subsection (4)(a) above. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-270. Wastewater treatment tap fee schedule. (1) Sewer tap fee inside corporate limits. All persons connecting to sewers shall pay a fee of two thousand dollars ($2,000.00) for the privilege of each tap that is connected inside the corporate town limits of Jonesborough plus a twenty-five dollar ($25.00) inspection fee, payable in advance with the following exceptions.

(2) Reduction of tap fees. The board reserves the right to reduce sewer tap fees in a project area involving new sewer construction with said discounted fee to be available only through the end of construction. End of construction shall be defined as the point the collection lines are completely installed and functional and the right-of-way areas have been leveled and been re-landscaped or sown in grass. If there is to be a reduced fee schedule it must be in writing and agreed upon by the BMA before the start of construction or development of any property.

(3) The board reserves the right to establish a sewer tap payment plan. The board of mayor and aldermen may vote to authorize a sewer tap installment payment plan for project areas involving new sewer construction within an existing residential area and normally inside or adjacent to the corporate limits. Sewer tap payment plans shall be available to all residents in a designated

project area up to a period of twelve (12) months from the end of construction; provided that interest is charged at the prevailing interest rate, which is defined as a treasury bill rate plus one percent (1%), and the term of the plan shall not exceed five (5) years. Action by the town board to establish an installment fee payment plan shall take place prior to sewer service becoming available.

(4) Multi-family units inside the town limits shall pay the applicable. Single dwelling rate of two thousand dollars ($2,000.00) for the first unit plus an additional one thousand dollars ($1,000.00) for each additional unit. Each building of an apartment complex will be considered as a new initial tap and be charged the applicable first unit rate of two thousand dollars ($2,000.00). There will be a twenty-five dollar ($25.00) inspection fee per building.

(5) Sewer taps fees for households outside the town limits of the town. Outside customers shall pay a fee of three thousand three hundred dollars ($3,300.00) for the privilege of each tap, payable in advance. There will be a twenty-five dollar ($25.00) inspection fee per household. Multi-family units outside shall pay the applicable single-dwelling rate of three thousand three hundred dollars ($3,300.00) for the first unit plus an additional one thousand six hundred fifty dollars ($1,650.00) for each additional unit. Each building of an apartment complex will be considered as a new initial tap and be charged the applicable first unit rate of three-thousand three hundred dollars ($3,300.00) outside. There will also be a twenty-five dollar ($25.00) inspection fee per building.

(6) Sewer taps for industrial/commercial facilities inside the town limits. Buildings such as factories, warehouses, and shopping centers shall pay two thousand dollars ($2,000.00) for structures up to ten thousand (10,000) square feet plus one thousand five hundred dollars ($1,500.00) for each additional ten thousand (10,000) square feet or portion thereof. Motels/hotels shall pay the same sewer tap fees as charged for multi-family units. Sewer taps for a car wash structure shall pay two thousand ($2,000.00) for the first bay and one thousand five hundred dollars ($1,500.00) for each additional bay. The town reserves the right to surcharge industrial users for any treatment activity that is above the normal requirements for household treatment or requires pre-treatment. A twenty-five dollar ($25.00) inspection fee will be charged per building for sewer connections.

(7) Sewer taps for industrial/commercial facilities outside the town limits. Buildings such as factories, warehouses, and shopping centers shall pay three thousand three hundred dollars ($3,300.00) for structures up to ten thousand (10,000) square feet plus two thousand six hundred fifty dollars ($2,650.00) for each additional ten thousand (10,000) square feet or portion thereof. Motels/hotels shall pay the same sewer tap fees as charged multi-family units. Sewer taps for a car wash structure shall pay three thousand three hundred dollars ($3,300.00) for the first bay and two thousand six hundred fifty dollars ($2,650.00) for each additional bay. The town reserves the right to surcharge industrial users for any treatment activity that is above the normal

requirements for household treatment, or requires pretreatment. A twenty-five dollar ($25.00) inspection fee will be charged per building for sewer connections.

(8) Sewer taps fees for households that require residential grinder pump stations. The Town of Jonesborough has adopted a plan to eliminate septic tanks from being added to our system. Any residential household that is located below grade of the main sewer line that is available to their property will be required to the extent possible to use a residential grinder pump station. If the property is within the existing town limits with available sewer service or in a new subdivision within the town limits, the sewer tap fee for the grinder pump is three thousand five hundred dollars ($3,500.00). Sewer tap fees for residential grinder pump stations installed as a result of annexation of an area initiated by the board of mayor and aldermen will be the same as the established sewer tap fee for the annexed area. This includes the wetwell, pump, controls and installation. This does not include electrical conduit, wiring, disconnect box, other electrical items needed to connect the station to the home, or the services of a licensed electrician. These must be provided by the homeowner. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-271. Pretreatment charges and fees. The Town of Jonesborough has adopted reasonable fees for reimbursement of costs of setting up and operating the Jonesborough Pretreatment Program, which may include:

(1) Fees for wastewater discharge permit applications including the cost of processing such applications. There is an application fee of one thousand five hundred dollars ($1,500.00), which must be paid within thirty (30) days of receiving an industrial user permit. The Town of Jonesborough charges an annual permitting fee of one thousand dollars ($1,000.00) which covers that calendar year billed;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users; costs for quarterly or semi-annually testing will be billed to the industry on an annual basis;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals;

(5) Fees to recover administrative and legal costs (not included in § 13-271(2)) associated with the enforcement activity taken by the DES to address IU noncompliance; and

(6) Other fees as the Town of Jonesborough may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the Town of Jonesborough. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-272. Equipment charge. (1) In cases where a developer, contractor or a plumber requests the services of the Jonesborough Sewer Department specialty equipment such as remote sewer camera or sewer line jetter/cleaner, a rate of one hundred ninety-five dollars ($195.00) per hour with a one (1) hour minimum charge will be used. This rate will be charged when a developer, contractor or a plumber requests a lateral locate or a lateral blockage that is not the responsibility of the Town of Jonesborough. This only applies to sewer specialty equipment.

(2) When a septic tank is requested to be pumped and the tank is not the cause of a sewer problem, a charge of one hundred dollars ($100.00) will be charged for the unnecessary service requested. All restaurants, cafeterias, hotels, motels, hospitals, schools, grocery stores, prisons, jails, churches, camps, caterers, brewery, or manufacturing plants that request a septic tank to be pumped, and it is determined that the problem is due to the customer failing to pump their grease trap, waste separator or for any other action by the customer that causes the septic tank to stop working properly or septic system failure, will be charged the one hundred dollars ($100.00) pumping fee. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-273. Severability. If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-274. Sewer pre-construction and engineering requirements. (1) Any developer or contractor must have a licensed engineer design the new extension or development.

(2) The Town of Jonesborough staff must review and approve the project plans before going to the state for final approval.

(3) The Town of Jonesborough Board of Mayor and Aldermen and Planning Board must approve all developments, subdivisions, and/or industries inside or outside the town limits that use the Jonesborough sewer system.

(4) The Jonesborough Sewer Department will receive a paper set and electronic set of project plans after plans are approved by the State of Tennessee (electronic set in Auto CAD).

(5) If or when a construction project deviates from the designed plans, a set of as-built plans must be submitted to the DES in paper and electronic forms.

(6) If there is an electric component to the project such as a lift station, the Johnson Town Power Board must be notified in advance for service design. All connection and installation fees will be at the cost of the developer.

(7) Whether inside or outside the town corporate limits, access easements to cleanouts must be recorded on deeds or plats.

(8) All new subdivisions or developments shall install six-inch (6") diameter stub out connections for lateral line connections. This includes subdivision extensions or developments with plans approved, but not yet constructed. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-275. Sewer operation and construction guidelines. (1) Connection to public sewers. Requirements for proper wastewater disposal:

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the Town of Jonesborough, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided below in subsection (1)(h), the owners of all existing houses, buildings, and other properties used for human occupancy, employment, recreation, or other purpose located within the town's corporate limits and situated within the town's public sanitary service area, but not previously connected to the town's sewer system, are hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within one hundred twenty (120) days after the date of official notice to do so; provided said public sewer is adjacent to the property line or designated sewer easement area.

Houses, buildings, or other properties or structures used for human occupancy, employment, recreation, or other purposes that are intended to be developed and constructed within the town corporate limits must install suitable toilet facilities therein that are connected directly to the proper public sewer collection system as part of the development of said structures.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(g) When properties are annexed into the town limits of the Town of Jonesborough, the board of mayor and aldermen shall adopt a plan of services that projects a reasonable schedule for installation of sanitary sewer into an annexed area.

(h) When sanitary sewer service is constructed by the town after annexation and available to receive sewer flow, all houses, businesses, buildings and structures used for human occupancy must connect to the town's sewer system within one hundred twenty (120) days after date of official notice to do so, and monthly billing will be initiated at one hundred twenty (120) days with the following exceptions:

(i) Any dwelling or other such existing building for human occupancy more than five hundred feet (500') from the town's sewer system can be exempt; provided that the septic system serving such dwelling or building has been inspected and determined to be in proper working condition and not a source of contamination;

(ii) The owner of an existing dwelling or building considered for exemption must sign a form requesting the exemption, acknowledging that any tap fee discount with the sewer extension project will not be extended, and upon documented septic tank failure the owner will be required to connect to the town's sewer system at the charges current when the application is made;

(iii) Any existing dwelling or building exempted above shall not be billed for sewer service, however, unless any discounted tap fee is paid by the official end of construction, any future tap fee payment made to connect said dwelling or building to the town's sewer system will be at the full tap fee charge when the application for service is made; and

(iv) Any septic system failure at a dwelling or building exempted above that results in an unsanitary condition is a violation of the ordinance with every day of unsanitary condition being considered a separate violation. When such unsanitary conditions result in one (1) or more citations, connection to the town's sewer system will be mandatory and billing will begin immediately.

(2) Physical connection to sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. Homeowners, contractors, developers, etc., must contact the director of environmental services to receive authorization to connect to the town's sewer system. When authorization is received for non-town personnel to make the connection to the sewer tap, the connection must be inspected by designated town personnel, before the lines are covered. Within the town corporate limits, extensions

to the town's sewer system must be approved by the planning commission and be undertaken under the town's sewer extension policy. Sewer system extensions outside of the town's corporate limits must also be undertaken under the town's sewer extension policy, and must be approved by the board of mayor and aldermen.

(b) Unless approved otherwise by the Jonesborough Board of Mayor and Aldermen, or through a policy established by the Jonesborough Board of Mayor and Aldermen, all costs and expenses incident to the installation, connection, and inspection of the building or construction of a sewer line service or extension shall be borne by the owner, contractor or developer. The owner, contractor or developer shall indemnify and hold-harmless the town from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer line(s).

(c) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway; the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(d) Old building sewers may be used in connection with new buildings; provided that the entire line meets current code requirements and passes inspection by the town building inspector and/or appropriate representative from the department of environmental services.

(e) Sewer service connections to buildings shall conform to the following requirements:

(i) Conventional gravity sewer lateral lines shall be a minimum of four inches (4").

(ii) Residential grinder pump lateral lines from the pump shall be a minimum of one and one-fourths inches (1-1/4").

(iii) Residential septic tanks, when used, the lateral line to the main collector shall be a minimum of two inches (2"). Whenever possible, septic tank usage within the town's sanitary sewer system shall be terminated and the gravity service lateral constructed as a replacement shall be a minimum of four inches (4").

(iv) Pipe will be PVC sewer pipe or equivalent.

(v) The recommended depth of sewer service laterals to customers is thirty inches (30") unless topography prohibits. However, the minimum depth of a sewer service lateral is eighteen inches (18"). Slope of alignment of sewers to buildings shall be neat and regular.

(vi) The minimum slope for a four inch (4") service lateral is one percent (1%) slope from clean out to main line. Larger sewer

service lines to buildings shall be designated by the project engineer.

(vii) Sewer service laterals shall be constructed using ductile iron, class 50 or above, or by using PVC (poly vinyl chloride) SDR-35 pipe for gravity sewers, and SDR-21 (schedule 40) pipe for pressure or gravity sewers. Joints shall be rubber or neoprene "O" ring compression joints, and no other joints shall be acceptable.

(viii) Clean outs on the service lateral shall be located in the following locations;

(A) Three feet (3') outside the building.

(B) At the point the service lateral crosses the property or easement line.

(C) At any change in direction in the sewer service lateral is more than forty-five (45°) degrees, Additional cleanouts shall be placed not more than one-hundred feet (100') apart in sewer laterals serving buildings when the sewer line is six inches (6") in diameter or more. Cleanouts shall be extended to or slightly above the finished grade level as closely as feasible to the location of the cleanout connection. A wye four inch (4") and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4").

(ix) Owners, contractors and developers must receive authorization from the town's director of environmental services before making any direct connection of sewer service lateral from a building or dwelling to the public sewer system. Connections shall be made at the appropriate locations using fittings and materials and connection standards determined by the director of environmental services. All authorized connections to the town's sewer system must be inspected by designated personnel from the town's department of environmental services.

(x) All dwelling or building locations in which the basement or ground floor level is lower than below the ground elevation at the point of connection to the town's sewer system, are required to install check valves or backflow prevention devices to protect against flooding and backflow into the dwelling. Such devices shall be installed at the expense of the owner, contractor or developer.

Except as may be determined in other sections of this chapter, the cost of pumping sewer from a dwelling or building to the public sewer system will be the responsibility of the owner, contractor or developer. Four inch (4") sewers—minimum one percent (1%) slope from cleanout to main line.

Larger building sewers shall be laid on a grade that will produce a velocity, when flowing full of at least two feet (2') per second.

New subdivisions or developments shall install six inch (6") diameter stub out connections for lateral connections.

(xi) Slope and alignment of all building sewers shall be neat and regular.

(xii) Connections of building sewers to the public sewer system shall be made only with the approval of the DES or his representative, and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building sewer laterals to the town's system shall be made by removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by and under the supervision of the DES. All such connections shall be made gastight and watertight

(xiii) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual or international codes. Any deviation from the prescribed procedures and materials must be approved by the building inspector and/or the DES before installation.

(xiv) An installed building sewer shall be gastight and watertight.

(xv) All excavations for building sewer installation shall be adequately guarded with barricades and sights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(xvi) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the building inspector, the DES or his authorized representative.

(b) The applicant for discharge shall notify the wastewater director when the building sewer service line is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of and inspected by the DES or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the Jonesborough Sewer System shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer from the building to the public sewer system.

(5) Availability of private domestic wastewater disposal. (a) Where a public sanitary sewer is not available the sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade that achieves two feet (2') per second.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within one hundred twenty (120) days after date of official notice from the town to do so.

(6) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the board of mayor and aldermen stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Tennessee Department of Environment and Conservation.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the Town of Jonesborough and the Tennessee Department of Environment and Conservation. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Town of Jonesborough and the Tennessee Department of Environment and Conservation.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Town of Jonesborough and the Tennessee Department of Environment and Conservation. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the Town of Jonesborough and the Tennessee Department of Environment and Conservation when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Town of Jonesborough and the Tennessee Department of Environment and Conservation.

(d) The type, capacity, location, and layout of the private sewage disposal system shall comply with all recommendations of the Department of Environment and Conservation of the State of Tennessee, and the Town of Jonesborough.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town. When the public sewer becomes available, the building sewer shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the town's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the Town of Jonesborough and the Tennessee Department of Environment and Conservation.

(7) Holding tank waste disposal. (a) No person, firm, association or corporation shall clean out, drain, or flush any septic tank that is designated a part of the town's sewer collection system without first contacting the director of environmental services. Waste collected by private haulers from a septic tank within the town's sewer system may only be discharged into a town operated dump station by obtaining a permit from the DES.

(b) Discharging by permit. No person, firm, association or corporation shall discharge into a town operated dump station without obtaining a permit from the DES.

(c) Designated disposal locations. No person, firm, association or corporation shall discharge waste of any form into a manhole, clean out, pipe, or other such connection in the town's sewer collection system, with the exception of dump stations established under the authority of the department of environmental services. Discharge into said official town dump stations must be by permit.

(d) Any permit to discharge into the town's sewer system may be immediately revoked by the DES or his representative at his absolute discretion if there is any indication the permitted discharge may interfere with the efficient operation of the wastewater treatment plant. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-276. Grease traps and oil separators. (1) Fat, Oil, and Grease (FOG) and waste food and oil. FOG, grease traps or oil and grease interceptors shall be installed when, in the opinion of the DES, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such

separators or traps shall not be required for single-family residences, but may be required on multiple-family residences. All traps or interceptors shall be of a type and capacity approved by the DES, and shall be located as to be readily and easily accessible for cleaning and inspection. Grease traps and oil and grease interceptors must be maintained properly by the owner, and must be cleaned and pumped regularly.

(2) Required users and trap size. (a) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste so that it does not negatively impact the town's sewer system.

(b) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste. If or when the DES determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system, the existing sewer user creating the problem will be required to install a grease trap or separator as it applies to the waste discharged. Any installation required shall be installed at the expense of the owner.

(c) The minimum exterior grease trap size is one thousand (1,000) gallons. Larger size traps may be required based on type of and amount of materials discharged. Food or oil separators located inside structures will be evaluated on a case-by-case basis,

(3) FOG or food waste plan. (a) The DES must approve the user's plan before implementation and the plan must be implemented within a reasonable amount of time. Required plan components are spill control, pumping schedules, maintenance and housekeeping procedures and records.

(b) The owner or operator must service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility, if in the opinion of the DES the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil separators. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose

interceptors are deemed to be ineffective by the DES may be asked to change the cleaning frequency or to increase the size of the separators or traps. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable town guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited by all FOG programs. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the town is prohibited unless approved by the Town of Jonesborough.

(g) The DES may use industrial wastewater discharge permits to regulate the discharge of fat, oil, grease and food waste. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

13-277. Effective date. This chapter shall be in full force and effect immediately following its passage, approval, and publication, as provided by law. (as added by Ord. #2011-14, Oct. 2011, as replaced by Ord. #2018-07, May 2018 ***Ch13_03-08-21***)

CHAPTER 3

CABLE TELEVISION

SECTION
13-301. To be furnished under franchise.[1]

13-301. To be furnished under franchise. Cable television shall be furnished for the town and its inhabitants under such franchise as the Board of Mayor and Aldermen shall grant. The rights, powers, duties and obligations of the parties shall be clearly stated in the written franchise agreement which shall be binding upon the parties. [Code of 1982]

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[1]Cable television is provided by Comcast Cablevision of the South d.b.a. Tennesee Valley Cable, pursuant to a franchise granted by Ordinance No. 97-07 passed June 9, 1997, which is of record in the office of the town recorder.

CHAPTER 4

TELECOMMUNICATIONS

SECTION

13-401. Definitions.
13-402. Purpose.
13-403. Applicability and exemptions.
13-404. Locating towers.
13-405. General requirements.
13-406. Application requirements.
13-407. Administratively approved uses.
13-408. Special exception permit.
13-409. Removal of abandoned antennas and towers.
13-410. Nonconforming use.
13-411. Public notice.
13-412. Private review and associated fees.
13-413. Automatic approval.

13-401. Definitions. "Accessory use." A use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to such primary use.

(1) "AM array." For the purposes of implementing this chapter, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as on AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(2) "Antenna." Any exterior transmitting or receiving device mounted on a tower, building or structure, and used in communications that radiate or capture electromagnetic waves, digital signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(3) "Antenna support structures." Any structure which supports an antenna, including towers, water tanks, buildings, etc.

(4) "Apartment." A form of multi-family housing which is "attached" and contains three (3) or more dwelling units for rent. The term does not include condominiums, row houses, or other structure which is intended for sale, not lease, of individual units.

(5) "Backhaul network." The lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(6) "FAA." Federal Aviation Administration.

(7) "FCC." Federal Communications Commission.

(8) "Height, antenna." When referring to an antenna located on a tower, the distance is measured from the base of the tower to the highest point on the antenna. When referring to an antenna located on a building, water tank, etc., the height is for the antenna only, and excludes the height of any support structure.

(9) "Height, tower." The distance measured from the base of the tower to the highest point on the antenna.

(10) "OSHA." Occupational Safety and Health Administration.

(11) "Principal use." The primary use of the property, which is permitted under the zoning regulations which apply to the district in which the use is located.

(12) "Special exception." Uses which are not permitted as of right in a zoning district, but which may be permitted upon review and approval by the board of zoning appeals.

(13) "Stealth type antenna support structures." A communication structure designed and installed in a manner such that the antenna, supporting apparatus and associate structures are aesthetically and architecturally appropriate with respect to existing structures or the immediate environment in which the towers/structure is located. (Examples include antennae in church steeples, bell towers, flag poles, power poles, etc.)

(14) "Tower." Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antenna for telephone, radio and similar communication proposed, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. (Ord. #99-05, May 1999)

13-402. Purpose. Telecommunications towers and antennas will use the following standards to minimize adverse visual and operational effects of towers through careful design, siting, and screening; to avoid potential damage to adjacent properties from tower failure through engineering and careful siting of towers; and to maximize use of any new communication tower and/or existing structures to reduce the number of towers needed. (Ord. #99-05, May 1999)

13-403. Applicability and exemptions. (1) New towers and antennas. All new towers and/or antennas in the Town of Jonesborough shall be subject to these regulations except non-commercial hobby type antennas/towers less than forty-five feet (45') in height; receive only antennas; antennas/towers located on property owned, leased, or otherwise controlled by the town or other governmental entity which are used for public purposes; and antennas less than forty-five feet (45') in height which are located on structures such as water tanks and buildings.

(2) Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this chapter, other than state and federal regulations, and building codes.

(3) Amateur radio and hobby type antenna support structures. Residents where not prohibited by deed or other restrictions may install a single antenna support structure that meets standard setback requirements and that does not exceed forty-five feet (45') in height for their hobby or other non-commercial use. "Crank up" type towers may exceed this height; provided they do not exceed the forty-five foot (45') height restriction in the "cranked down" position where they must remain when not in use. (Ord. #99-05, May 1999)

13-404. Locating towers. (1) Monopole towers and stealth-type antenna support structures are permitted as of right, subject to applicable regulations, in the B-3 (Intermediate Business), B-4 (Arterial Business), M-1 (Manufacturing Warehouse), and M-2 (Industrial) Districts, and within apartment developments in R-2 (Medium Density) and R-3 (High Density) Residential Districts.

(2) Monopole towers and stealth-type antenna support structures are permitted as special exceptions, upon a showing that such location and such antenna support structure is required to prevent an effective denial of coverage, and subject to applicable regulations, in the following districts: R-1 (Low Density Residential), R-2 (Medium Density Residential), and B-1 (Neighborhood Business District), and in non-apartment areas in R-3 (High Density Residential) Districts.

(3) Towers are not permitted in the H-1 (Historic Overlay District) and B-2 (Central Business) Districts.

(4) Lattice self-supporting and guyed towers are permitted as special exceptions in the B-3 (Intermediate Business), B-4 (Arterial Business), M-1 (Manufacturing Warehouse), and M-2 (Industrial) Districts, upon a showing that such location and such antenna support structure is required to prevent an effective denial of coverage.

(5) Monopoles in excess of the height requirements of Section 1505.16.3[1] are permitted as special exceptions in R-1 (Low Density Residential), R-2 (Medium Density Residential), R-3 (High Density Residential), and B-1 (Neighborhood Business) Districts, upon a showing that such location and such antenna support structure is required to prevent an effective denial of coverage.

(6) Monopoles and stealth-type antenna support structures are permitted as a matter of right on municipal power line utility easements; provided that the Board of Jonesborough Light and Power System gives its

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[1]This section number appears in Ordinance #99-05 (May 1979), from which these provisions were taken.

consent and the antenna support structure is incorporated into the power line support structure.

(7) Monopoles and stealth-type antenna support structures up to one hundred sixty feet (160') in height are permitted as a matter of right on municipal property in all districts excepting in H-1 (Historic Overlay District), provided that the appropriate governing body approves. (Ord. #99-05, May 1999)

13-405. General requirements. (1) Aesthetics. Towers and antenna support structures shall meet the following requirements:

(a) Towers and antenna support structures shall maintain a galvanized steel finish and shall not be painted unless previously approved by the Town of Jonesborough.

(b) Stealth-type antenna support structures are to be encouraged in areas of high population density.

(c) Towers or antenna support structures of any kind, including amateur, will not be permitted to be located in the front yard of any residence or on the roof of any single-family residence.

(d) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

(e) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(f) Flush-mounted (within two feet (2') of the surface) antenna will be utilized on monopoles where feasible.

(2) Buildings or other equipment storage. The equipment cabinet or structure used in association with antennas shall be constructed in accordance with the following:

(a) In R-3 (High Density Residential) equipment enclosures shall not contain more than two hundred (200) square feet of gross floor area or be more than ten feet (10') in height for each carrier using the site.

(b) In R-1 (Low Density Residential), R-1A (Low Density Residential), R-2 (Medium Density Residential), R-3 (High Density Residential), B-1 (Neighborhood Business), and B-2 (Central Business) Districts, the equipment enclosure shall be no larger than one hundred (100) square feet of gross floor area to be more than five feet (5') in height for each carrier using the site.

(c) In all other districts they shall be no greater than twelve feet (12') in height or two hundred (200) square feet of gross floor area for each carrier using the site.

(d) In all above cases where equipment shelters are mounted outside existing buildings, the equipment enclosures must be designed such that they blend in with the local environment and be unobtrusive in addition to those requirements set forth in 1504.7[1] hereof.

(3) Building codes. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town of Jonesborough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower at the owner's expense.

(4) Certification. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee for such certifications.

(5) Compliance. A description of compliance with this chapter and all applicable federal, state or local laws relating to such tower/antenna support structure shall be submitted with each request for a tower/antenna.

(6) Franchises, permits and licenses. Owners and/or operators of towers, antenna support, structure, or antennas shall certify that all franchises, licenses, and permits required in the Town of Jonesborough have been obtained and shall file a copy of all required franchises, licenses and permits with the town in their initial application. Permits will not be granted to any applicant that does not hold a valid FCC issued license or permit or a letter of commitment to use the requested structure from an FCC permittee or licensee upon completion, at the time of application.

(7) Landscaping. All new tower facilities, or reconstructed tower facilities, are required to provide an evergreen screen or artificial buffer located outside the required tower fencing. This screen may consist of evergreen trees, have a minimum height of six feet (6') at planting and a minimum height of fifteen feet (15') at maturity, or a continuous hedge with three feet (3') height at planting and a six foot (6') height at maturity, or in the alternative, an artificial buffer of colored archival fencing material that blends in with the surrounding

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[1]This section number appears in Ordinance #99-05 (May 1979), from which these provisions were taken.

land use. The board of zoning appeals may grant a variance to the landscaping requirements if they find existing vegetation adequate to provide a buffer.

(8) Lighting. Towers and antenna support structures shall not be artificially lighted, unless required by the FAA or other applicable authority. Deflectors shall be utilized to direct the light upwards and away from residential areas. Further, where lighting is required, the lights so installed shall be of the "dual lighting" variety whereby white strobe lights are permitted for daytime and red lights for nighttime. White strobe lights for night operation are not permitted in the Town of Jonesborough. Any lighting required will be to the dual lighting requirements of the FAA.

(9) Measurement. For the purposes of measurement, tower setbacks and separation distances shall be calculated from the base of the tower.

(10) Principal or accessory use. Towers may be considered either principal or accessory uses, while antennas are accessory uses.

(11) Security. (a) All towers shall be equipped with an appropriate anti-climbing device or the removal of climbing pegs on the first twenty feet (20') of the structure.

(b) Security fences will not be permitted in R-1 (Low Density Residential) and R-1A (Low Density Residential) except as special exceptions. All cabling within twenty feet (20') of the ground shall be enclosed in conduit or other secure enclosure and all cabinetry shall be locked.

(c) Security fences are permitted in all other districts and may be required at the discretion of the building official except in locations on municipal property when fencing may be required at the discretion of the appropriate governing body. These fences shall be not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device. The fences shall remain locked when not in use.

(12) Separation. Towers shall comply with the minimum separation standards established in Table 1.

TABLE 1

Type of Use	Distance between tower and use
Single-Family Dwellings	150 feet*
Vacant R-1 or R-2 zoned land which is either platted or has preliminary subdivision plat approval which is not expired	150 feet
Vacant unplatted residentially zoned lands.	200 feet

Existing multi-family residential units (3 units or more)	100 feet
Non-residentially zoned lands or non-residential uses	None; only setbacks for district apply

* The separation distances listed in Table 1 do not apply to monopoles, which become part of the utility system. These poles, because of their nature, will be closer to residential structures than the above listed area.

(a) A special exception may be granted in instances when written permission has been obtained from all persons owning land within the above-cited distance.

(13) Setbacks. (a) Towers proposed to be located in R-1 (Low Density Residential), R-1A (Low Density Residential), R-2 (Medium Density Residential), R-3 (High Density Residential), and B-1 (Neighborhood Business) Districts, must be set back a distance of one foot (1') for each two feet (2') of the height of the tower from any adjoining lot line; provided however, that all towers must also meet the separation distances listed in Section 1504.12.[1] Accessory buildings must satisfy the minimum zoning district setback requirements.

(b) Towers proposed to be located in all other districts shall meet the minimum setback requirements for that district, provided however, that all towers must also meet the separation distances listed in section 1504.12.[1]

(c) Towers proposed to be located on municipal property, regardless of the zoning designation for the property, shall meet the minimum setback requirements for that district.

(14) Signs. No commercial signs, including banners, shall be permitted on an antenna or antenna support structure. Any sign required by the FCC, FAA, OSHA or any other appropriate authority will be permitted so long as said sign is no larger than twelve inches (12") by eighteen inches (18") and is placed within eight feet (8') of the base of the tower. However, an additional sign no larger than stated above indicating the owner of the facility and a telephone number to call for more information or in an emergency shall be allowed inside the compound fence on the side the gates are located.

(15) State or federal requirements. All towers and antenna support structures must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this

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[1]This section number appears in Ordinance #99-05 (May 1979), from which these provisions were taken.

chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(16) New towers. A new tower/antenna support structure will not be permitted unless the tower is designed to support a minimum of three (3) communications carriers' antennas and feedlines, except for ninety foot (90') or shorter monopoles which must be designed to support a minimum of two (2) carriers' antennas and feedlines. The applicant for the permit certifies that it will make space on the tower available to other communications carriers at a reasonable cost. Should there be a dispute over what constitutes a "reasonable cost," the matter will be resolved by binding arbitration with arbitration costs to be borne by the parties. An arbitrator will be chosen by mutual agreement of the parties, but if they are unable to agree on an arbitrator, one (1) will be selected by the Town of Jonesborough.

(a) Where a new antenna support structure/tower is permitted to be constructed in R-1 (Low Density Residential), R-1A (Low Density Residential), R-2 (Medium Density Residential), R-3 (High Density Residential) Districts, the owner shall be required to submit a sealed "fall zone radius" letter from the antenna support manufacturer when applying for a building permit.

(b) A permit for a proposed new tower/support structure within two thousand five hundred feet (2,500') of an existing communications tower shall not be issued unless the applicant certifies that the existing communications tower does not meet applicant's structural specifications and applicant's technical design requirements as reviewed by the town, or that a co-location agreement could not be obtained.

(c) Permitted height of freestanding communication antennae support structures.

Districts	Height
R-1, R-1A, R-2, B-1	90 feet (unlighted)
R-3, (Non-apartment areas)	90 feet (unlighted)
R-3, (Apartment areas)	199 feet (unlighted)
B-3, B-4, M-1, M-2	199 feet (lights if approved as a special exception)

(Ord. #99-05, May 1999)

13-406. Application requirements. The following information is required to be submitted when requesting approval for a new tower, whether by administrative approval, or by a special exception. This information may be

submitted to and reviewed by a consultant employed by the town who has expertise in antenna support structure issues, with costs to be borne by the party requesting approval.

(1) Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the town an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Town of Jonesborough or within Jonesborough planning region thereof, including specific information about the location, height, and design of each tower.

(2) Site plan. The following information is required to be shown on the site plan: the location, type and height of the proposed tower; on-site land uses and zoning; adjacent land uses and zoning (including information for adjacent municipalities and Washington County); separation distances from uses as set forth in section 1504.12[1] adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed tower and any other structures; topography; parking; drainage, legal description of the parent tract and leased parcel (if applicable), or tax map identification number; the setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zone properties; the separation distance from and construction of other existing towers; owner/operator of existing tower(s), if known; method of fencing, and finished color; landscape plan showing specific landscape materials, with spacing proposals, height of vegetation at planting, and height of vegetation in three (3) years (considered maturity).

(3) Documentation. (a) A notarized statement by the applicant as to how many antennas the tower can accommodate.

(b) A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

(c) A description of the feasible location(s) of future towers or antennas within the Town of Jonesborough and the planning region based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(d) Evidence to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna. This evidence may consist of any of the following:

(i) A certification that there are no existing towers or structures located within the geographic area, which meet the applicant's engineering requirements.

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[1]This section number appears in Ordinance #99-05 (May 1979), from which these provisions were taken.

(ii) A certification that existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

(iii) A certification that existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

(iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(viii) A certification that no other tower is located within two thousand five hundred feet (2,500') of the proposed location.

(ix) A certification from the applicant that the landowner has been advised that the land is to be used for multiple carriers' equipment.

(x) The applicant for a tower or antenna support permit shall, upon the filing of said application, pay an initial application fee to the Town of Jonesborough as set forth by the town from time to time. (Ord. #99-05, May 1999)

13-407. Administratively approved uses. The building official may approve the following requests; provided the proposed antenna/tower meets all applicable criteria listed in this chapter.

(1) Locating a tower or stealth-type antenna support structure outside an H-1 (Historic Overlay District), in B-3 (Arterial Business), B-4 (Intermediate Business), M-1 (Warehouse Manufacturing), and M-2 (Industrial) Districts.

(2) Locating an antenna on a non-tower structure, or constructing a stealth-type antenna support structure outside an H-1 (Historic Overlay

District) in the R-2 (Medium Density Residential), R-3 (High Density Residential), B-2 (Central Business), B-3 (Arterial Business), B-4 (Intermediate Business), M-1 (Warehouse Manufacturing), and M-2 (Industrial) Districts.

(3) Replacing existing towers. Towers may be reconstructed; provided they are located within fifty feet (50') of the original tower, and the original tower is removed upon completion of the replacement tower. The replacement tower may be constructed up to fifty feet (50') taller than the original tower if additional antennas are to be added. This height change may only occur one (1) time per communication tower within a special exception approval.

(4) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers. (Ord. #99-05, May 1999)

13-408. Special exception permit. (1) A special exception permit is required if:

(a) A monopole or stealth-type antenna support structure is proposed to be located in R-1 (Low Density Residential), R-1A (Low Density Residential), R-2 (Medium Density Residential), and B-1 (Neighborhood Business) Districts, and in non-apartment areas in R-3 (High Density Residential) District. It must be shown that the location is required to prevent an effective denial of coverage. Section 1504.1[1] notwithstanding, the aesthetic design of such monopole or stealth-type antenna support structure shall be subject to the approval of the Jonesborough Board of Zoning Appeals.

(b) A special exception permit is required if a tower or antenna support structure exceeds any of the limits set forth or is not in compliance with any of the provisions hereof is proposed.

(c) A guyed or lattice tower/antenna support structure is requested to be constructed.

(2) In granting a special exception permit, the board of zoning appeals may impose conditions to the extent they conclude such conditions are necessary to minimize adverse effects of the proposed tower on adjoining properties.

(3) Factors considered in granting special use permits for towers. The board of zoning appeals shall consider the following factors in determining whether to grant a special exception: height of the proposed tower; proximity of the tower to residential structures and residential district boundaries; nature of uses on adjacent and nearby properties; surrounding topography; surrounding tree coverage and foliage; design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual

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[1]This section number appears in Ordinance #99-05 (May 1979), from which these provisions were taken.

obtrusiveness; proposed ingress and egress; and availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

13-409. Removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Town of Jonesborough notifying the owner of such abandonment. Failure to remove an abandoned antenna within the said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users abandon tower. (Ord. #99-05, May 1999)

13-410. Nonconforming use. (1) No expansion of nonconforming uses. Towers that are constructed, and antennas that are installed in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

(2) Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

(3) Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding section 1509.1,[1] bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special exception permit and without having to meet the separation requirements. The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained, or if said permit expires, the tower or antenna shall be deemed abandoned as specified in section 1508.[1] (Ord. #99-05, May 1999)

13-411. Public notice. For the purpose of this chapter, any review of a tower/antenna request by the board of zoning appeals shall require written notice to all abutting property owners at least seven (7) days prior to the meeting where the item will be discussed. (Ord. #99-05, May 1999)

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[1]This section number appears in Ordinance #99-05 (May 1979), from which these provisions were taken.

13-412. Private review and associated fees. The Town of Jonesborough reserves the right to submit for private sector review any and all requests for towers and antennas. All fees associated with private sector reviews and recommendations shall be assessed to the individual or company submitting the tower or antenna request, and the amount of any fees shall be provided to the applicant in advance of the review. (Ord. #99-05, May 1999)

13-413. Automatic approval. The building official or his designee shall either approve or deny each application for administrative approval within sixty (60) days after receiving a completed application. If the building official fails to respond within the said sixty (60) days, the application shall be deemed to be approved. (Ord. #99-05, May 1999)

CHAPTER 5

STREET LIGHTING

SECTION

13-501. Application and scope.
13-502. Approval required.
13-503. Installation through public safety director.
13-504. Location.
13-505. Adding security lights.
13-506. Regular street lighting.
13-507. Decorative street lighting--historic district.
13-508. Security and other lights--historic district.
13-509. Decorative street lighting--non-historic district.
13-510. Bond for decorative lighting.

13-501. Application and scope. The provisions of the chapter apply to all streetlights installed within the town limits on town right-of-way or on other public ways and places. [as added by Ord. #2001-05, July 2001]

13-502. Approval required. No streetlight shall be installed on any town right-of-way or public way or place without either the approval of the public safety director or the Jonesborough Planning Commission. [as added by Ord. #2001-05, July 2001]

13-503. Installation through public safety director. The public safety director is hereby authorized to request individual streetlights along existing town streets or alleys when the director determines that the health and safety of residents requires additional lighting. [as added by Ord. #2001-05, July 2001]

13-504. Location. Regular street lights shall be normally spaced three hundred to three hundred fifty feet (300' to 350') apart on residential streets or in subdivisions being designed under the regulatory authority of the Jonesborough Planning Commission, two hundred to two hundred fifty feet (200' to 250') apart on intermediate streets and one hundred to one hundred fifty feet (100' to 150') apart on major arterial streets within the town. Streetlights are also generally located at intersections and the ends of dead end streets. However, the public safety director, or his designee, is given the discretionary authority to add or relocate street lights, based on factors including, but not limited to, hills, curves, trees, etc., when it is determined that to do so will improve the health and safety of residents. [as added by Ord. #2001-05, July 2001]

13-505. Added security lights. Jonesborough street lighting is installed for the sole purpose of making streets and public ways safer for vehicles and pedestrians. Street lighting is not intended to provide lighting for homes, businesses, or yards. Residents or businesses wanting lighting around homes, buildings or grounds for security purposes shall provide said lighting at their expense. [as added by Ord. #2001-05, July 2001]

13-506. Regular street lighting. The Town of Jonesborough will normally install cobra style streetlights on wooden poles through the Johnson City Power Board. These lights will be installed through a request initiated by the public safety director which details location and number. The entire cost of this lighting will be added to the town's investment account with the Johnson City Power Board to be billed on a monthly basis and paid by the town. [as added by Ord. #2001-05, July 2001]

13-507. Decorative street lighting--historic district. Decorative street lighting used along streets within the historic district shall be the Jonesborough lamp or a similar fixture modeled after the original Jonesborough gas street lamp. [as added by Ord. #2001-05, July 2001]

13-508. Security and other lights--historic district. Lighting installed by residents and businesses within the historic district on grounds, lots and structures for security or decorative purposes shall follow standards and guidelines in Section 18 Exterior Lighting, established by the historic zoning commission. [as added by Ord. #2001-05, July 2001]

13-509. Decorative street lighting--non-historic district. Decorative street lighting in subdivisions and commercial areas outside the historic district is encouraged. Decorative lighting, installed with the intent to become part of the town's street lighting system and under town responsibility, shall be installed under the following provisions.

(1) The decorative lights selected must be one (1) of the fixtures and poles approved for installation by the board of mayor and aldermen. An approved list will be developed, and said list may be updated and revised from time to time by the board of mayor and aldermen as it deems necessary, subject to any requirements of the Johnson City Power Board. The approved street lighting list will be available to residents, developers, etc. through the building inspector, public safety director, or the town recorder.

(2) Cost of decorative lighting will be determined by the Johnson City Power Board.

(3) Individuals, developers, etc. installing decorative lighting must pay an amount prior to installation that is equal to the difference between the cost of the decorative light(s) to be installed and the regular cobra street light(s)

normally installed by the town. The difference in cost will be determined by the Johnson City Power Board.

(4) Payment for the added capital cost of the decorative streetlights will be paid to the recorder's office in advance, prior to the lights being ordered. The recorder shall make payment to the power board to reduce the investment change that is added to the town's account.

(5) Once-installed, the decorative streetlights will become the property of the Town of Jonesborough and will be added to the town's investment and maintenance account. [as added by Ord. #2001-05, July 2001]

13-510. Bond for decorative lighting. Decorative lighting included in site plans approved by the Jonesborough Planning Commission must be installed as approved, or the planning commission must approve a waiver or alternate plan. The developer must obtain a letter of credit or a contractor's performance bond that is in an amount that is at least equal to the capital cost of purchasing the decorative streetlights from the Johnson City Power Board and laying the electrical lines associated with said lights. Decorative streetlight costs can be included with other utility, streets, curbs, sidewalks, stormwater, etc. work covered under a comprehensive letter of credit or contractor performance bond, however, said letter of credit or bond will not be released until the streetlights have been installed property as approved. Streetlight improvements in new subdivisions shall constructed:

(1) In a timely manner with streetlights being placed along streets in front of houses or businesses before the buildings are occupied and a certificate of occupancy is issued.

(2) In locations approved by the public safety director and in such numbers as to meet the safety requirements as determined by the public safety director.

(3) With a fixture and pole design approved by the Jonesborough Planning Commission. [as added by Ord. #2001-05, July 2001]

CHAPTER 6

GAS

SECTION
13-601. To be furnished under franchise.

13-601. To be furnished under franchise[1]. 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. [as added by Ord. #2006-02, April 2006]

[1]See Ord. #2006-02 of record in the office of the town recorder.

ORDINANCE NO. 92-02

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF JONESBOROUGH, TENNESSEE.

WHEREAS some of the ordinances of the Town of Jonesborough 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 Jonesborough, 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 Jonesborough Municipal Code, now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF JONESBOROUGH, 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 13, both inclusive, are ordained and adopted as the Jonesborough 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.

Section 3. Ordinances saved from repeal. The repeal provided for in the preceding section 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 contract or obligation assumed by or in favor of said town; 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; nor shall such repeal affect any ordinance passed or amended since January 1, 1991 which having been properly adopted shall become apart of this code upon third and final reading; nor shall such repeal affect any ordinance annexing territory to the town or amending the zoning map.

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, whenever in the municipal code any act is prohibited or is made or declared to be 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 provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars ($500.00) 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 appears, 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 appears, it shall mean "A civil penalty". (as replaced by Ord. #94-08, July 1994)

Section 6. Code as evidence. Any printed copy of the Municipal Code certified under the signature of the recorder shall be held to be a true and correct copy of such codification, and may be read in evidence in any court without further proof of the provisions contained therein.

Section 7. 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 8. Reproduction and amendment of code. The Municipal Code shall be reproduced in loose-leaf form. The board or 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 general ordinance shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the Municipal Code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the Municipal Code will contain references to all ordinances responsible for current provisions. One copy of the Municipal Code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 9. 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 10. 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 11. 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 April 8, 1991.

Passed 2nd reading May 13, 1991.

Passed 3rd reading January 13, 1992.

Mayor

Laura Hamilton

Recorder