

**THE
LOOKOUT MOUNTAIN
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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TOWN OF LOOKOUT MOUNTAIN, TENNESSEE

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PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

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

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

Section 1. Ordinances. Ordinances making appropriations shall be confined to the subject of appropriation. Any resolution may be passed and adopted on one (1) reading. Each ordinance shall be passed on two (2) separate days before the same is operative. Each ordinance must be in written form before its second and final reading.

Section 2. Previous ordinances. All ordinances and resolutions now in force in the town shall be and remain in force unless they are in conflict with the provisions of this act, in which event they shall be of no force or effect.

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. MAYOR AND BOARD OF COMMISSIONERS.
2. MAYOR.
3. TREASURER.
4. ASSISTANT TREASURER.
5. CODE OF ETHICS.

CHAPTER 1

MAYOR AND BOARD OF COMMISSIONERS²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.

1-101. Time and place of regular meetings. The mayor and board of commissioners shall hold regular monthly meetings at 5:00 P.M. on the second Tuesday of each month at the town hall. (1992 Code, § 1-101, modified)

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

- (1) Call to order by the mayor.
- (2) Roll call by the clerk.

¹Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.
 Fire department: title 7.
 Utilities: titles 18 and 19.
 Wastewater treatment: title 18.
 Zoning: title 14.

²Charter references

Articles III and IV.

- (3) Reading of minutes of the previous meeting by the clerk, and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the mayor and board of commissioners, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1992 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised*, shall govern the transaction of business by and before the mayor and board of commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1992 Code, § 1-103, modified)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises town's affairs.

1-202. Executes town's contracts.

1-203. To be bonded.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1992 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the mayor and board of commissioners. (1992 Code, § 1-202)

1-203. To be bonded. The mayor and such other officials, officers and/or employees as the board of mayor and commissioners may designate by resolution shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the mayor and board of commissioners. (1992 Code, § 1-203)

¹Charter reference
Article IV.

CHAPTER 3**TREASURER****SECTION**

1-301. To be bonded.

1-302. Financial duties and money management duties.

1-303. Assignment.

1-301. To be bonded. The treasurer shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to the mayor and board of commissioners.¹

1-302. Financial duties and money management duties. The treasurer shall have supervision of the financial and accounting affairs of the town which shall include:

(1) Recording the collection and investment of all revenues paid to the town.

(2) Payment of all expenses in conformance with the annual budget approved annually by the town commission.

(3) Preparation of the annual budget for approval by the town commission.

(4) Assist the mayor and each commissioner in managing the administrative affairs of each department.²

1-303. Assignment. The treasurer may assign by letter these duties and responsibilities to the town consultant. The town consultant shall be bonded and faithfully perform the duties assigned and render his services and receive his compensation on a part-time hourly basis.

¹Charter reference
Article IV, § 8.

²Charter reference
Article IV, §§ 6-7.

CHAPTER 4

ASSISTANT TREASURER¹

SECTION

1-401. To be bonded.

1-402. Financial duties.

1-403. To perform general administrative duties, etc.

1-401. To be bonded. The assistant treasurer shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the mayor and board of commissioners. (1992 Code, § 1-301)

1-402. Financial duties. The assistant treasurer shall collect, receive and receipt taxes and all other revenues of the town, including the proceeds of its bond issues; provide a report of the condition of the treasury to the treasurer once a month and at such other times as he directs; and shall perform all other financial duties prescribed for the assistant treasurer in the charter and by the mayor and board of commissioners. (1992 Code, § 1-302)

1-403. To perform general administrative duties, etc. The assistant treasurer shall perform all administrative duties for the mayor and board of commissioners and for the town which are not assigned by the charter, this code, or the mayor and board of commissioners to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers. (1992 Code, § 1-303)

¹Charter reference
Article IV.

CHAPTER 5

CODE OF ETHICS¹

SECTION

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

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

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

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

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

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

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

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

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

1-501. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1-510. Ethics complaints. (1) The town attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the town attorney shall investigate any credible complaint against an appointed

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

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

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

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

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

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

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3
MUNICIPAL COURT¹

CHAPTER
1. TOWN COURT.

CHAPTER 1
TOWN COURT

SECTION

- 3-101. Town judge.
- 3-102. Maintenance of docket.
- 3-103. Issuance of arrest warrants.
- 3-104. Issuance of summonses.
- 3-105. Issuance of subpoenas.
- 3-106. Appearance bonds authorized.
- 3-107. Imposition of fines, penalties, and costs.
- 3-108. Appeals.
- 3-109. Bond amounts, conditions, and forms.
- 3-110. Disposition and report of fines, penalties, and costs.
- 3-111. Contempt of court.

3-101. Town judge. A town judge who shall preside over and constitute the town court shall be elected in the general election of the town to serve for a term of eight (8) years. The town judge shall be a lawyer licensed to practice law in the State of Tennessee. Compensation of one thousand dollars (\$1,000.00) per month shall be set prior to appointment and shall not be modified during his term. If the town judge resigns, or is otherwise incapacitated during his term, the successor shall be appointed by the mayor and board of commissioners. (modified)

3-102. Maintenance of docket. The town clerk shall keep a complete docket of all matters coming before the municipal court. 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. (1992 Code, § 1-502, modified)

¹Charter reference
Article VII.

3-103. 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. (1992 Code, § 1-503)

3-104. 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 municipal code or 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. (1992 Code, § 1-504)

3-105. 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. (1992 Code, § 1-505)

3-106. 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 town court clerk, or in the absence of the town court clerk, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs. (1992 Code, § 1-506)

3-107. Imposition of fines, penalties, and costs. All fines, penalties, and costs shall be imposed and recorded by the town clerk, and approved by the town judge, on the town court docket in open court.

In all cases heard and determined by him, the town judge shall impose court costs in the amount of one hundred twenty dollars (\$120.00) in cases of guilty pleas in moving violation cases; one hundred forty dollars (\$140.00) for other state charges, and one hundred five dollars (\$105.00) for moving violations resulting in dismissal and one hundred twenty five dollars (\$125.00) in cases

¹State law reference

For authority to issue arrest warrants see *Tennessee Code Annotated*, title 40, chapter 5.

resulting in dismissal on non-moving charges. One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. (1992 Code, § 1-507, modified)

3-108. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days¹ next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1992 Code, § 1-508)

3-109. 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 such sum as the town judge shall prescribe, not to exceed the sum of two hundred fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (1992 Code, § 1-509)

3-110. 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. (1992 Code, § 1-510, modified)

3-111. Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL REGULATIONS.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

PERSONNEL REGULATIONS¹

SECTION

4-101. Adoption by reference.

4-101. Adoption by reference. The personnel regulations for the Town of Lookout Mountain are hereby adopted by reference and incorporated as fully as if set out at length herein. (Ord. #___, Sept. 2016)

¹The Personnel Policy Handbook for the Town of Lookout Mountain, as amended from time to time, is available in the office of the recorder.

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Adopted by reference.

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

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. CARTA PRIVILEGE TAXES.
4. PURCHASING.

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES

SECTION

- 5-101. When due and payable.
 5-102. When delinquent--penalty and interest.
 5-103. Tax rate.

5-101. When due and payable.¹ Taxes levied by the town against real and personal property shall become due and payable annually to the Town of Lookout Mountain on the first day of October of the year for which levied. (1992 Code, § 6-101, modified)

¹Charter reference
 Article X.

State law reference

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

5-102. When delinquent--penalty and interest.¹ 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.² (1992 Code, § 6-102)

5-103. Tax rate. In accord with State of Tennessee requirements after a general reassessment of property by Hamilton County, it is hereby ordained that the ad valorem tax rate for all property located within the Town of Lookout Mountain, Tennessee be set by ordinance yearly and reflected on annual tax statements.³ (Ord. #150, Oct. 2009, modified)

¹Charter reference
Article X.

State law reference

Tennessee Code Annotated, § 67-1-801(c) provides that if the county trustee collects the municipality's property taxes, a penalty of one-half of one percent (0.5%) and interest of one percent (1%) shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

²Charter reference
Article X.

State law reference

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

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

³These tax statements, and any amendments, may be obtained in the office of the town recorder.

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.

5-202. License required.

5-201. 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 state laws. The taxes provided for in the state's Business Tax Act¹ 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 act. (1992 Code, § 6-201)

5-202. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the clerk to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1992 Code, § 6-202)

¹State law reference

Tennessee Code Annotated, §§ 67-4-701, et seq.

CHAPTER 3

CARTA PRIVILEGE TAXES¹

SECTION

- 5-301. Intent and purpose.
- 5-302. Levy of tax.
- 5-303. Rate of tax.
- 5-304. Collection of tax.
- 5-305. Tax cumulative.
- 5-306. Supplemental to other laws.

5-301. Intent and purpose. It is the intent and purpose of this chapter to authorize the Town of Lookout Mountain to impose a tax on the sale of all tickets within the Town of Lookout Mountain for rides on the Incline Railway, collectible by CARTA at the time of issuance of the tickets, so as to insure and require that persons responsible for the need to provide additional municipal services share in the burdens by paying their fair share of the cost of new and expanded public services related to tourist traffic. (1992 Code, § 6-301)

5-302. Levy of tax. The sale of tickets within the Town of Lookout Mountain for rides on the Incline Railway is declared to be a privilege upon which a tax shall be due in an amount not to exceed the rate set forth in § 5-303. (1992 Code, § 6-302)

5-303. Rate of tax. For the exercise of the privilege described herein, there is imposed a tax on the charge for tickets for rides upon the Incline Railway not to exceed a percentage of the total charge for the ticket equal to the maximum permissible combined state and local option sales tax. The rate is initially set at seven and one-quarter percent (7.25%). (1992 Code, § 6-303)

5-304. Collection of tax. The tax imposed in this chapter shall be collected at the time of sale of the ticket and segregated as such. (1992 Code, § 6-304)

5-305. Tax cumulative. The imposition of this privilege tax on the sale of tickets within the Town of Lookout Mountain for rides on the Incline Railway

¹State law reference

Chapter 170 of the Private Acts of 1988 of the State of Tennessee.

is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising measure of granted either by private acts of the State of Tennessee and the imposition of such tax, in addition to any other authorized tax, fees, assessments or charges shall not be deemed to constitute double taxation. (1992 Code, § 6-305)

5-306. Supplemental to other laws. The provisions of this chapter shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to the Town of Lookout Mountain. This chapter shall be deemed to create an additional and alternative method for the Town of Lookout Mountain to impose and collect taxes for public purposes. (1992 Code, § 6-306)

CHAPTER 4**PURCHASING****SECTION**

5-401. Public advertisement and competitive bidding required.

5-402. Three quotations required.

5-401. Public advertisement and competitive bidding required.

Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of twenty five thousand dollars (\$25,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Law of 1983, *Tennessee Code Annotated* §§ 6-56-301, *et seq.* (Ord. #___, Feb. 2016, modified)

5-402. Three quotations required. Three (3) written quotations are required whenever possible for purchases costing less than the twenty-five thousand (\$25,000.00) bid threshold adopted for competitive bidding and public advertisement, but more than ten thousand dollars (\$10,000.00). (Ord. #___, Feb. 2016)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST¹

SECTION

6-101. Police officers subject to chief's orders.

6-102. Police officers to preserve law and order, etc.

6-103. When police officers to make arrests.

6-104. Disposition of persons arrested.

6-105. Police department records.

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1992 Code, § 1-401)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the town. They shall patrol the municipality and shall assist the town court during the trial of cases. Police officers shall also promptly serve any legal process issued by the town court. (1992 Code, § 1-402)

6-103. When police officers to make arrests¹. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1992 Code, § 1-403)

6-104. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation

¹Municipal code reference

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

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 court clerk, or, if the town court clerk 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. (1992 Code, § 1-404)

6-105. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing at a minimum:

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

(2) All arrests made by police officers.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1992 Code, § 1-405)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

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

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire district described.

7-101. Fire district described. The corporate fire district shall be as follows:

The same as the Neighborhood Commercial District defined in "The Lookout Mountain Zoning Ordinance" adopted June 13, 1972, to wit: Beginning at the intersection of Watauga Lane and Scenic Highway, north along Watauga Lane to the Town Common, formerly known as the W. I. Stoner and J. M. Noland land, east along the south line of the Town Common to Scenic Highway, south along Scenic Highway to the point of beginning. (1992 Code, § 7-101)

¹Municipal code reference

Building, utility and residential codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Available in recorder's office.
- 7-203. Enforcement.
- 7-204. Definition of "municipality."
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violations and penalty.

7-201. Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the *International Fire Code*², 2018 edition, is hereby adopted by reference and included as a part of this code. The *International Fire Code* is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1992 Code, § 7-201, as amended by Ord. #153, Jan. 2011, modified)

7-202. Available in recorder's office. Pursuant to the requirement of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the *International Fire Code* has been filed with the town recorder and is available for public use and inspection.

7-203. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1992 Code, § 7-202)

7-204. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Lookout Mountain, Tennessee. (1992 Code, § 7-203)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at

¹Municipal code reference

Building, utility and residential codes: title 12

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

any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1992 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the mayor and board of commissioners variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the mayor and board of commissioners. (1992 Code, § 7-206)

7-207. Violations and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the *International Fire Code* herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the mayor and board of commissioners or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1992 Code, § 7-207)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Chief responsible for training and maintenance.

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

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the mayor and board of commissioners. All apparatus, equipment, and supplies shall be purchased by or through the town and shall be and remain the property of the town. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and fire fighters as the mayor and board of commissioners shall appoint. (1992 Code, § 7-301)

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

(1) To prevent uncontrolled fires from starting;

(2) To prevent the loss of life and property because of fires;

(3) To confine fires to their places of origin;

(4) To extinguish uncontrolled fires;

(5) To prevent loss of life from asphyxiation or drowning; and

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1992 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the mayor and board of commissioners. (1992 Code, § 7-303)

¹The town has a public safety department and all references to the fire chief shall mean and be the same as references to the chief of public safety. Likewise, all references to fire fighters shall mean and be the same as references to public safety officers.

Municipal code reference

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

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor as the mayor requires. The mayor shall submit a report on those matters to the mayor and board of commissioners as the mayor and board of commissioners requires. (1992 Code, § 7-304)

7-305. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the fire fighters and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the mayor and board of commissioners. (1992 Code, § 7-305)

7-306. Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by *Tennessee Code Annotated*, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1992 Code, § 7-306)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

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

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

- (1) *Tennessee Code Annotated*, §§ 58-8-101, *et seq.*¹

¹State law references

The Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, *Tennessee Code Annotated*, §§ 58-8-101, *et seq.*, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The Act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to *Tennessee Code Annotated*, §§ 12-9-101, *et seq.* "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency medical care, the provision of civil defense services, or any other emergency assistance one (1) governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

- (2) *Tennessee Code Annotated*, §§ 12-9-101, *et seq.*¹
- (3) *Tennessee Code Annotated*, § 6-54-601.² (1992 Code, § 7-401)

¹*Tennessee Code Annotated*, § 6-54-601 authorizes municipalities:

(1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with individual fire departments to furnish one another with fire fighting assistance.

(2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide the latter with firefighting assistance.

(3) Provide fire protection outside their town limits to either areas or citizens on an individual contractual basis whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided.

²*Tennessee Code Annotated*, §§ 12-9-101, *et seq.* is the Interlocal Governmental Cooperation Act which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

CHAPTER 5**FIREWORKS****SECTION**

7-501. Sale and manufacture and discharge of fireworks prohibited.

7-501. Sale and manufacture and discharge of fireworks prohibited. It shall be unlawful for any person, firm or corporation to sell, or offer for sale, any firecrackers or other fireworks within the corporate limits of the Town of Lookout Mountain. It shall also be unlawful for any person to discharge or explode any firecracker or other fireworks, within such corporate limits. (1992 Code, § 7-501)

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

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before mayor and board of commissioners; duty to give information.
- 8-105. Action on application.
- 8-106. Applicants for certificate who have criminal record.
- 8-107. Where establishments may be located.
- 8-108. Retail stores to be on ground floor; entrances.
- 8-109. Limitation on number of retailers.
- 8-110. Inspection fee.
- 8-111. Violations and penalty.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this town except as provided by *Tennessee Code Annotated*, title 57.

8-102. Application for certificate. Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any commissioner, an application in writing shall be filed with the town recorder on a form to be provided by the town, giving the following information:

- (1) Name, age and address of the applicant;
- (2) Number of years residence in the town;

¹State law reference

Tennessee Code Annotated, title 57.

- (3) Occupation or business and length of time engaged in such occupation or business;
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any town ordinance, and the details of any such conviction;
- (5) If employed, the name and address of employer;
- (6) If in business, the kind of business and location thereof;
- (7) The location of the proposed store for the sale of alcoholic beverages;
- (8) The name and address of the owner of the store; and
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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

8-103. Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the town and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages.

8-104. Applicant to appear before mayor and board of commissioners; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and commissioners for such reasonable examination as may be desired by the board. (modified)

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

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

8-106. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years

preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

8-107. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the town except within the town's commercial district.

8-108. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the town except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

8-109. Limitation on number of retailers. No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter.

8-110. Inspection fee. The Town of Lookout Mountain imposes an inspection fee in the maximum amount allowed by *Tennessee Code Annotated*, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the town.

8-111. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

CHAPTER 2

BEER

SECTION

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

8-201. Beer board established. There is hereby established a beer board to be composed of the Mayor and Board of Commissioners of the Town of Lookout Mountain. The mayor shall serve as chairman of the beer board. All members of the beer board shall serve without compensation.

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

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

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

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.¹

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

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board.² The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Lookout Mountain. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00).³ Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town of Lookout Mountain, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

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

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

³State law reference
Tennessee Code Annotated, § 57-5-104(b).

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premises and off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.¹

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to three (3); provided, that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the town at the date of the passage of the ordinance comprising this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

¹State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten years. Under *Tennessee Code Annotated*, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under *Tennessee Code Annotated*, § 16-12-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of *Tennessee Code Annotated*, § 57-5-301(a) a local offense.

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

(2) Make or allow the sale of beer between the hours of 12:00 midnight and 8:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 10:00 A.M. Sunday.

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

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

(5) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer. (modified)

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

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

8-214. Civil penalty in lieu of revocation or suspension.

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

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two

thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

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

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

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

8-215. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-216. Special event permit. (1) Upon proper application to the beer board, a person or organization wishing to sponsor and present a civic event, festival, street party or similar event may obtain a permit to offer alcoholic beverages for sale and consumption at the site of the event. The application shall specify the exact boundaries of the proposed location within the town, the name of the sponsoring person or organization, the public or civic interest advanced by the proposed event, the name of the alcohol permit holder providing the beverages for sale or consumption, the name of the insurance company or agent providing insurance for the event naming the town as an additional insured, the details of security and crowd control for the event, the method of assuring no under-age drinking or purchase of alcohol and any other information deemed relevant by the beer board.

(2) Upon receipt of the application and a non-refundable permit fee of two hundred dollars (\$200.00) the beer board shall schedule a meeting for consideration of the application and publish a public notice of the meeting at least five (5) days prior thereto.

(3) The permit, if granted shall be valid during the period specified, not to exceed five hours, and only within the boundaries set forth by the beer board. The decision to grant or deny the permit is solely within the discretion of the beer board. (Ord. #157, Oct. 2011)

8-217. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

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

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

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

¹Municipal code references

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

Health and sanitation: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 5.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include those who may canvass neighborhoods to discuss or inform the public on matters purely moral, religious or political and who do not, in the course of their discussion or presentation, seek or encourage monetary or other donations or contributions and do not offer any item for sale or lease. If in the course of their discussion contributions are sought or items offered for sale then they shall be treated as a "solicitor" as set forth in paragraph (3) below.

(3) "Solicitor for charitable or religious purposes," means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization. No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

(5) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of

¹State law references

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

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 67-4-709(a)(19). Note also that *Tennessee Code Annotated*, § 67-4-709(a) prescribes that transient vendors shall pay a tax of fifty dollars (\$50.00) for each fourteen (14) day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709(b).

selling or offering to sell the merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (Ord. #____, Nov. 2013)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newspaper deliverers, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons canvassing neighborhoods to discuss moral, religious or political issues or ideas and do not in the process seek or encourage donations or offer any goods or other items for sale or lease as set out in § 9-101(2) above. (Ord. #____, Nov. 2013)

9-103. Permit required. No person, firm or corporation operating a business as a peddler, transient vendor, solicitor or street barker, shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (Ord. #____, Nov. 2013)

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

- (a) The complete name and permanent address of the business or organization the applicant represents.
- (b) A brief description of the type of business and the goods to be sold.
- (c) The dates for which the applicant intends to do business or make solicitations.
- (d) The names and permanent addresses of each person who will make sales or solicitations within the town.
- (e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitation, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

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

(2) Solicitors or canvassing people must obtain a permit fifteen (15) days prior to the planned solicitation or canvass. Each permit application must contain the name of the organization for whom the solicitation or canvass is being conducted and the number and names of the persons to be actively canvassing the properties and the dates on which the canvass is to be conducted.

(3) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a non-refundable fee of fifty dollars (\$50.00).

(4) Permit issued. Upon the completion of the application form, satisfactory review by the town marshal, and the payment of the permit fee, the town clerk shall issue a permit and provide a copy of the same to the applicant. (Ord. #____, Nov. 2013)

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor shall:

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a blue circular sticker or decal is displayed on the property.

(6) Door to door canvassing of the residents of the town shall be limited to the hours between 9:00 A.M. prevailing time and 5:30 P.M. prevailing time. (Ord. #____, Nov. 2013)

9-106. Display of permit. Each peddler, street barker, solicitor, is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (Ord. #____, Nov. 2013)

9-107. Suspension or revocation of permit. (1) Suspension by the town marshal. The permit issued to any person or organization under this chapter may be suspended by the town marshal for any of the following causes:

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the mayor and board of commissioners.

The permit issued to any person or organization under this chapter may be suspended or revoked by the mayor and board of commissioners, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the town marshal in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (Ord. #____, Nov. 2013)

9-108. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the date specified in the permit application. (Ord. #____, Nov. 2013)

9-109. Violations and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (Ord. #____, Nov. 2013)

CHAPTER 2

YARD SALES

SECTION

9-201. Prohibited generally.

9-202. Estate sales.

9-201. Prohibited generally. It shall be unlawful for any person to conduct any sale of personal property commonly known as a "yard" or "garage" sale, whether located outside or within any part of a residence or other building located within the town's residential zones. (1992 Code, § 5-201)

9-202. Estate sales. Estate sales are not included in the definition of yard sales, and are not prohibited. To conduct an estate sale the individual in charge of the sale must obtain a traffic control permit from the chief of police at least ten (10) days prior to the sale. There is no charge for the permit, however the cost for traffic control shall be calculated, charged, and collected at the time the permit is issued. (1992 Code, § 5-202)

CHAPTER 3

CABLE TELEVISION

SECTION

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television shall be furnished to the Town of Lookout Mountain and its inhabitants under franchise granted to Comcast Cable TV by the Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee. The rights, powers, duties and obligations of the Town of Lookout Mountain and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹ (1992 Code, § 13-401, modified)

¹Complete details relating to the cable television franchise agreement are available in the office of the town clerk.

TITLE 10**ANIMAL CONTROL**¹**CHAPTER**

1. IN GENERAL.
2. DOGS AND CATS.

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

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

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1992 Code, § 3-101)

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (1992 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or

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

enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1992 Code, § 3-103)

10-104. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1992 Code, § 3-104, modified)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1992 Code, § 3-105)

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

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the mayor and board of commissioners, to cover the costs of impoundment and maintenance. (1992 Code, § 3-107, as amended by Ord. #7, Jan. 1993)

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

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Noisy dogs prohibited.
- 10-205. Confinement of dogs and cats suspected of being rabid.
- 10-206. Seizure and disposition of dogs and cats.
- 10-207. Destruction of vicious or infected dogs and cats running at large.
- 10-208. Dogs and cats in heat to be restrained.
- 10-209. Nuisance prohibited.
- 10-210. Vicious dogs.
- 10-211. Violations and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" or other applicable law. (1992 Code, § 3-201)

10-202. Dogs and cats to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog or cat, for a period of five (5) consecutive days, which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1992 Code, § 3-202)

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

Any person knowingly permitting a dog or cat to run at large, including the owner of the dog or cat, may be prosecuted under this section even if the dog or cat is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1992 Code, § 3-205)

10-204. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1992 Code, § 3-207)

¹State law reference

Tennessee Code Annotated, § 68-8-107.

10-205. Confinement of dogs and cats suspected of being rabid.

If any dog or cat has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog or cat to be confined or isolated for such time as he deems reasonably necessary to determine if such dog or cat is rabid. (1992 Code, § 3-208)

10-206. Seizure and disposition of dogs and cats. (1) Any dog or cat found running at large or otherwise in violation of the provisions of this chapter of the Lookout Mountain Municipal Code may be seized by any police officer or other properly designated official or officer and placed in a pound provided or designated by the mayor and board of commissioners. Any dog properly registered and wearing the appropriate tags shall be returned to the home of the owner, if possible, and if not possible, shall be retained in the pound of the town for a period not to exceed three (3) days. Any unregistered or untagged dog or cat shall be delivered to the humane educational society on the same day that it is seized. After three (3) days of holding a registered or tagged dog or cat in the town facility the animal may be delivered to the humane educational society.

(2) A handling and processing fee or arrest fee, shall be charged to the owner of any dog or cat so seized in the amount of twenty-five dollars (\$25.00) and a charge of five dollars (\$5.00) per day shall be made for the boarding and detention of any properly registered or tagged dog or cat. The owner of any unregistered dog or cat impounded may claim and redeem it upon compliance with the registration provision of this chapter and payment of the registration fee, arrest fees and boarding fees required in this chapter in addition to any other fees applicable thereto. A fine not to exceed fifty dollars (\$50.00) shall be levied upon the owner of the dog or cat so seized and charged. Upon the third offense and, in the discretion of the town judge, the offending animal may be ordered removed from the town limits. Any animal suspect of being rabid or having bitten someone shall be retained for a period of ten (10) days for observation at the home of the owner, at the pound of the town or at the humane education society. All costs of such detainer shall be borne by the owner of the animal. In the event the appropriate officers are unable to restrain or otherwise confine the offending animal or if the animal is rabid or suspect of being rabid or has bitten a person, is otherwise considered a threat to the community or persons, or is a stray, the animal may be tranquilized or disposed of by any appropriate means.

(3) Animals may be seized on private property only with consent of the property owner or occupant or if the property owner or occupant files a complaint; provided, however, that an animal which has bitten someone or is suspected of being rabid may be seized anywhere.

(4) Any dog or cat seized under the provisions of this section and unclaimed by its owner within the appropriate time may be redeemed by a person other than the owner by full compliance with all registration and fee

provisions of this chapter, if such persons shall furnish two (2) satisfactory references and sign an agreement that the dog or cat will be cared for humanely and returned to the pound if demanded. Such persons shall also agree that in the event the owner of such dog or cat claims it within a period of thirty (30) days, upon demand of the poundkeeper and payment by the owner to the poundkeeper for the use and benefit of such person or the fee and board and other expenses paid out by such person and board for the period that such person has cared for the dog or cat at the rate of five dollars (\$5.00) per day, such dog or cat will be returned to the poundkeeper who shall return it to the owner. Dogs and cats shall not be released to public persons other than the owners for any purpose other than to serve as pets or watch dogs. (Ord. #21, Aug. 1993, as amended by Ord. #111, Dec. 2001)

10-207. Destruction of vicious or infected dogs and cats running at large. When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by any police officer¹ or other properly designated officer. (1992 Code, § 3-210)

10-208. Dogs and cats in heat to be restrained. It shall be unlawful for any person to own or keep any dog or cat known to be in heat unless such dog or cat is confined and are otherwise restrained so as to prevent other dogs and cats from coming about and creating a nuisance. (Ord. #21, Aug. 1993)

10-209. Nuisance prohibited. It shall be unlawful for any dog or cat to cause damage to property of others and to create a nuisance by entering onto the land of others and causing damage to property or containers for the disposal of garbage, refuse or recyclable materials or otherwise disturbing the peace and quiet of any neighborhood. (Ord. #21, Aug. 1993)

10-210. Vicious dogs. (1) For the purpose of this section, "vicious dogs" means:

- (a) Any dog which has attacked a human being or domestic animal one (1) or more times without provocation;
- (b) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see the case of *Darnell v. Shapard*, 156 Tenn. 544, 3 S.W.2d 661 (1927).

- (c) Any dog that snaps, bites or manifests a disposition to snap or bite;
- (d) Any dog that has been trained for dog fighting, animal fighting or animal baiting, or is owned or kept for such purposes;
- (e) Any dog trained to attack human beings, upon command or spontaneously, in response to human activities except dogs owned by and under the control of the police department, a law enforcement agency of the State of Tennessee or the United States or a branch of the armed forces of the United States;
- (f) Staffordshire terrier breed of dog;
- (g) The American pit bull breed of dog;
- (h) The American Staffordshire terrier breed of dog;
- (i) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; or
- (j) Any dog which has the appearance and characteristics of being predominantly of the breed of Staffordshire terrier; any other breed commonly known as pit bulls, pit bull terriers, or a combination of any of these breeds.

(2) An application to license a vicious dog must include, in addition to any information required above, the following:

(a) Presentation by the applicant of a certificate of insurance issued by an insurance company licensed to do business in this state, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of five hundred thousand dollars (\$500,000.00) for the injury or death of any person, for damage to property of others and for acts of negligence by the owner, or his or her agents, in the keeping or owning of such vicious dogs. Said certificate shall require notice to the town, in conformity with general town standards for certificates of insurance, in the event the underlying policy of insurance is canceled for any reasons.

(b) The cancellation or other termination of any insurance policy presented to comply with this section, shall automatically revoke and terminate the licenses issued under this subsection unless another certificate, complying with this section, shall be provided showing insurance in the effect at the time of such cancellation or termination.

(c) Applicant shall pay to the town an administrative fee of one hundred fifty dollars (\$150.00) to defray the costs of administration of this act. The application must be presented to the town recorder with two (2) color photos of the dog.

The owner of the vicious dog shall be required to notify the town within twenty-four (24) hours of any transfer of ownership of the dog, the dog's escape or death, any change of address by the owner, or birth of offspring to the dog.

(3) All vicious dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed and muzzled provided below. Such pen, kennel or structure must have secure sides and a secure top attached to the sides or in lieu of a top, walls at least six feet (6') in height and at least six feet (6') taller than any internal structure.

All pens or other structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock which such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet (2') so as to prevent digging under the walls by the confined dog. All pens must have a sign with minimum two inch (2") lettering saying "BEWARE OF VICIOUS DOG." The town marshal or other person designated by the town manager is empowered to inspect such pens at least once per year.

All structures erected to house vicious dogs must comply with all zoning and building regulations of the town. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.

No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six feet (6') in length and a muzzle. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless both dog and leash are under the actual physical control of a person eighteen (18) years of age or older.

Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure. Violation of this section is a misdemeanor and shall be punishable to the maximum allowable under law for each violation.

(4) A vicious dog which is found twice not to be confined as required by this section shall be required to be permanently removed from the town or destroyed. An animal which is returned to the town after removal under this section shall be destroyed.

(5) All unlicensed vicious dogs shall be deemed illegal animals. The person harboring or keeping an unlicensed vicious dog may have the animal removed from the town, if, however, the animal is again found unlicensed in the town or if the person holding or keeping the animal chooses not to remove it from the town, then the dog shall be destroyed. This section shall not apply to a dog which, upon initial notice to its owner, the owner agrees to properly license and confine; or to a dog for which a hearing has been requested under this chapter to determine if it is vicious until there has been a final decision on the questions raised at hearing at which time the owner may, if the dog is found vicious, properly license and confine said dog. (Ord. #120, Jan. 2004)

10-211. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking alcoholic beverages in public, etc.

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place; provided, however, that the consumption of alcoholic beverages shall be allowed when attending a properly permitted festival, street party, or charitable or civic event, so long as the person so consuming the beverage is within the limits of the permitted area and is not guilty of public intoxication. (1992 Code, § 10-202, as amended by Ord. #157, Sept. 2011)

¹Municipal code references

Animals and fowls: title 10.

Building, utility, codes: title 12.

Fireworks: title 7.

Property maintenance regulations: title 13.

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

Traffic offenses: title 15.

Utilities: titles 18 and 19.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Anti-noise regulations.

11-202. Violations and penalty.

11-201. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

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

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

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

(f) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any

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

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

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

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

(j) Exterior alarms, bells or sirens. To sound any exterior alarm, bell, siren or similar sound for a continuous period in excess of twenty (20) minutes.

(k) Motorized or power driven leaf blowers, lawn mowers, chain saws, lawn trimmers and similar devices shall apply to residents performing lawn services on their occupied premises. The use of motorized or power driven leaf blowers, lawn mowers, chain saws, lawn trimmers or other similar devices may be used except between the hours of 8:00 A.M. and the earlier of 8:00 P.M. and sunset Monday through Saturday, and 12:00 noon and the earlier of 8:00 P.M. or sunset on Sunday.

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

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

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, the county, or

the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial, commercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial or commercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the mayor and board of commissioners. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1992 Code, § 11-502, modified)

11-202. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

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

11-301. Air rifles, etc.

11-302. Discharge of firearms.

11-301. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1992 Code, § 10-701)

11-302. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1992 Code, § 10-703)

CHAPTER 4

TRESPASSING AND INTERFERENCE WITH TRAFFIC**SECTION**

11-401. Trespassing.

11-402. Interference with traffic.

11-403. Violations and penalty.

11-401. Trespassing. (1) On premises open to the public.

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

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

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

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

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

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹ (1992 Code, § 10-801)

11-402. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

with the free passage of pedestrian or vehicular traffic thereon. (1992 Code, § 10-803)

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

CHAPTER 5**MISCELLANEOUS****SECTION**

- 11-501. Removal of paint by fire prohibited.
- 11-502. Camping prohibited.
- 11-503. Picnicking prohibited.

11-501. Removal of paint by fire prohibited. It shall be unlawful to use fire or flame to assist in the removal of paint or other coatings from metal or wooden surfaces inside or on the exterior of any structure within the town. (1992 Code, § 10-1001)

11-502. Camping prohibited. It shall be unlawful for any person to set up tents, shacks, or any other temporary or permanent shelter for the purpose of camping, or for any person to park any movable structure or vehicle to be used or that could be used for the purpose of camping, for any period of time upon the roads, roadsides or upon any public property within the Town of Lookout Mountain, or upon any private property without express permission from the owner. (1992 Code, § 10-901)

11-503. Picnicking prohibited. It shall be unlawful for any person to picnic on the roadside or on any public property within the Town of Lookout Mountain unless such property shall have been specifically set aside for such purpose, or upon any private property without the permission of the owner. (1992 Code, § 10-902)

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. MECHANICAL CODE.
5. FUEL GAS CODE.
6. ENERGY CONSERVATION CODE.
7. MINIMUM HOUSING STANDARDS.

CHAPTER 1

BUILDING CODE

SECTION

- 12-101. Building code adopted.
 12-102. Modifications.
 12-103. Available in recorder's office.
 12-104. Engineering certification.
 12-105. Violations and penalty.

12-101. Building code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the *International Building Code*,² 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated

¹Municipal code references

Fire protection and fireworks: title 7.

Planning and zoning: title 14.

Property maintenance regulations: title 13.

Streets and sidewalks: title 16.

Utilities: title 18.

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

by reference as a part of this code, and is hereinafter referred to as the international building code. (Ord. #149, Sept. 2010, modified)

12-102. Modifications. (1) Definitions. Whenever in the international building code when reference is made to the duties of a certain official named therein, that designated official of the Town of Lookout Mountain, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the international building code are concerned.

(2) Permit fees. The schedule of permit fees shall be as provided by the mayor and board of commissioners from time to time by ordinance. (Ord. #149, Sept. 2010, modified)

12-103. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #149, Sept. 2010)

12-104. Engineering certification. Any plans submitted to the town for the purpose of obtaining a building permit shall provide a civil engineer's certification that appropriate measures have been taken to avoid the diversion of water flow and for adequate drainage without impairing neighboring properties. This provision shall apply only to those plans which cause a larger portion of a lot to be covered with construction or involve changes in the grade of the lot upon which construction will be conducted. (Ord. #84, Oct. 1998)

12-105. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable to a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #149, Sept. 2010)

CHAPTER 2

PLUMBING CODE

SECTION

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

12-201. Plumbing code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the *International Plumbing Code*,¹ 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1992 Code, § 12-201, modified)

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

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

(2) Permit fees. The schedule of permit fees shall be as provided by the mayor and board of commissioners from time to time by ordinance. (1992 Code, § 12-202)

12-203. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502 one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-203)

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter

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

shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1992 Code, § 12-204)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Enforcement.
- 12-305. Fees.
- 12-306. Violations and penalty.

12-301. Electrical code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the *National Electrical Code*,² 2017 edition, as prepared and adopted by the National Fire Protection Association is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the international building code. (Ord. #149, Sept. 2010, modified)

12-302. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #149, Sept. 2010)

12-303. Permit required for doing electrical work. No electrical work shall be done within this town until a permit therefor has been issued by the town. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1992 Code, § 4-303)

12-304. Enforcement. The electrical inspector shall be such person as the mayor and board of commissioners shall appoint or designate. It shall be his

¹Municipal code reference

Fire protection and fireworks: title 7.

²Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to ensure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1992 Code, § 4-305)

12-305. Fees. The electrical inspector shall collect the same fees as are authorized in *Tennessee Code Annotated*, § 68-17-143 for electrical inspections by deputy inspectors of the state fire marshal. (1992 Code, § 4-306)

12-306. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the electrical code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable to a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #149, Sept. 2010)

CHAPTER 4

MECHANICAL CODE

SECTION

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

12-401. Mechanical code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the *International Mechanical Code*,¹ 2018 edition, as prepared and adopted by the International 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 mechanical code. (1992 Code, § 12-401, modified)

12-402. Modifications. Wherever the mechanical code refers to the "Building Department," "Mechanical Official," or "Building Official," or "Inspector" it shall mean the person appointed or designated by the mayor and board of commissioners to administer and enforce the provisions of the mechanical code. (1992 Code, § 12-402)

12-403. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the town recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-403)

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. (1992 Code, § 12-404)

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

CHAPTER 5

FUEL GAS CODE

SECTION

- 12-501. Fuel gas code adopted.
- 12-502. Available in recorder's office.
- 12-503. Gas inspector and assistants.
- 12-504. Fees.
- 12-505. Violations and penalty.

12-501. Fuel gas code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the *International Fuel Gas Code*,¹ 2018 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. (1992 Code, § 12-501, modified)

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

12-503. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the mayor and board of commissioners. (1992 Code, § 12-502)

12-504. Fees. The schedule of permit fees shall be as provided by the mayor and board of commissioners from time to time by ordinance. (1992 Code, § 12-503)

12-505. Violations and penalty. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be subject to a penalty under the general penalty provision of this code. (1992 Code, § 12-504)

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

CHAPTER 6

ENERGY CONSERVATION CODE

SECTION

- 12-601. Energy conservation code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

12-601. Energy conservation code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of energy-efficient building envelopes and the installation of energy-efficient mechanical, lighting and power systems to establish energy-efficient buildings using prescriptive and performance-related provisions which will make possible the use of new materials and innovative techniques that conserve energy, the *International Energy Conservation Code*,¹ 2018 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (1992 Code, § 12-601, modified)

12-602. Modifications. Whenever the energy conservation code refers to the duties of a certain official named therein, that designated official of the Town of Lookout Mountain who has duties corresponding to those of the named official in the energy conservation code shall be deemed to be the responsible official insofar as enforcing the provisions of the energy conservation code are concerned. (1992 Code, § 12-602)

12-603. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-603)

12-604. Violations and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1992 Code, § 12-604)

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

CHAPTER 7

MINIMUM HOUSING STANDARDS

SECTION

- 12-701. Purpose.
- 12-702. Scope, applicability and conflict.
- 12-703. Definitions.
- 12-704. Minimum housing standards.
- 12-705. Inspections and right of entry.
- 12-706. Notice of violations.
- 12-707. Effect of non-compliance.
- 12-708. Designation of dwelling as unfit for human habitation--procedures.
- 12-709. Effect of designation of dwelling as unfit for human habitation.
- 12-710. Designation of building or dwelling as dangerous and a public nuisance--procedures.
- 12-711. Effect of designation of building or dwelling as dangerous and a public nuisance.
- 12-712. Emergency cases.
- 12-713. Assistance of town attorney.
- 12-714. Imposition of penalty no bar to legal action.
- 12-715. Appeals.
- 12-716. Notice of suspected abandonment.
- 12-717. Effect of notice.
- 12-718. Designation of dwelling units as an abandoned dwelling unit.
- 12-719. Effect of designation of dwelling unit as abandoned dwelling unit.
- 12-720. Fee for inspection of abandoned dwelling unit.

12-701. Purpose. The purposes of this chapter are to provide for the public health, safety and welfare by the establishment and enforcement of minimum housing standards to the end that all dwellings within the Town of Lookout Mountain shall be safe, sanitary, free from fire and health hazards, fit for human habitation and beneficial to the public welfare and shall not constitute a blighting or deteriorating influence upon the town or any of its areas; to establish the responsibilities of owners, operators and occupants with respect to such minimum housing standards, to authorize the inspection of dwellings, to establish compliance with such minimum housing standards; to establish procedures for the enforcement of such minimum housing standards, to authorize the vacation or condemnation of dwellings not in compliance with such minimum housing standards; and to provide penalties for the violation of such minimum housing standards. (1992 Code, § 4-401)

12-702. Scope, applicability and conflict. (1) The requirements imposed by this chapter shall be in addition to any and all other applicable requirements imposed by other ordinances and regulations of the Town of Lookout Mountain.

(2) This chapter is applicable to occupancy for residential purposes of any building, whether or not such building was erected, altered or converted in full or substantial compliance with the laws in force at the time of its erection, alteration or conversion and, except as hereinafter provided, whether or not such building was erected, altered or converted prior to the effective date of the chapter.

(3) In the event restrictions imposed by this chapter are either more restrictive or less restrictive than comparable restrictions imposed by any other provisions of any other ordinances of the town or of any other law, resolution, rule or regulations, those which are more restrictive shall be deemed to govern. (1992 Code, § 12-402)

12-703. Definitions. For the purpose of this chapter, all terms used herein shall have the same meaning as given them in the following chapters.

(1) "Governing body" shall mean the mayor and board of commissioners charged with governing the town.

(2) "Municipality" shall mean the Town of Lookout Mountain, Tennessee, and the areas encompasses within existing town limits or as hereafter annexed.

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

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

(5) "Public authority" shall mean the mayor and board of commissioners or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(6) "Public officer" shall mean the officer or officers of the fire and police department who are authorized by this chapter to exercise the powers prescribed herein and pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1992 Code, § 4-403)

12-704. Minimum housing standards. (1) Minimum standards. No person shall occupy as an owner-occupant or shall let to another for occupancy

any dwelling or dwelling unit which does not comply with the standards set forth in title 12 of the Lookout Mountain Municipal Code.

(2) Garbage and rubbish disposal facilities. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit which does not comply with the following minimum standards for garbage and rubbish disposal facilities:

(a) Facilities to be supplied. Every dwelling and dwelling unit shall be supplied with facilities for the temporary storage and disposal of garbage and rubbish.

(b) Maintenance. The facilities required by subsection (a) above shall be maintained in a good, non-leakable condition, capable of being tightly sealed, and as clean as possible.

(c) Disposal and storage of garbage and rubbish. The disposal and storage of garbage and rubbish shall be in accordance with all applicable provisions of any law of the town and all premises shall be kept free from any debris, objects, material or condition which may create a health, accident or fire hazard, or which is a public nuisance, or which constitutes a blighting or deteriorating influence on the neighborhood.

(3) Protection from insects, rodents and pests. No person shall occupy as an owner-occupant nor let to another for occupancy any dwelling or dwelling unit which is not maintained free of conditions conducive to the breeding of or infestation by rodents, insects or pests.

(4) General maintenance. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit which does not comply with the following minimum standards for general maintenance:

(a) General.

(i) All dwellings and dwelling units and all parts thereof, both exterior and interior, shall be maintained in good repair and shall be capable of performing the function for which they or any feature thereof were designed or intended to be used.

(ii) Every supplied facility, piece of equipment or utility which is required under this chapter and every chimney and smokepipe, shall be so constructed and installed that it will function safely and effectively, and shall be maintained in sound working condition.

(iii) No owner, operator or occupant shall cause any service facilities, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued from any occupied dwelling or dwelling unit let or occupied by him, except such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the chief of fire and police.

(b) Exterior surfaces. All exterior surfaces of any dwelling or accessory structure shall be reasonably capable of withstanding the effects of the elements and decay. Any exterior surface which is deteriorated, decaying, disintegrating, or which has weathered with dirt and grime or which has lost its capability to reasonably withstand the effects of the elements and decay through peeling or flaking of the paint or other protective coating, shall be repaired, repainted or resurfaced.

(c) Interior walls and ceilings. Every interior wall and ceiling shall be substantially rodent-proof shall be free of holes and large cracks and any flaking, peeling, loose or deteriorated paint, plaster, wallboard, paneling or other material; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. No lead-base paint shall be applied to any interior wall or ceiling. Bathroom and kitchen walls shall have waterproof surfaces where necessary to prevent water damage.

(d) Stairways and porches. Every inside and outside stairway and porch and every appurtenance thereto shall be maintained in a good state of repair and free from rotting, loose or deteriorating supports, rails, floors, and stairs so as to be safe to use and capable of supporting the loads that normal use may cause to be placed thereon.

(e) Accessory structures. All garages, tool sheds and all other accessory structures shall be kept in good repair so as not to be unsafe or become a harborage for rats and other rodents. Fences and roadside mailboxes shall be maintained in good repair, solid and in the same condition required for other exterior surfaces. Television antennas shall be firmly and securely fastened to the dwelling and shall be maintained in good repair.

(f) Accumulation of debris. The interior areas of dwellings and dwelling units, including basements, attics and other storage areas, and the premises and accessory buildings associated therewith, shall be maintained free of any debris, object, material or condition which does or may create a hazard to the health or safety of persons, in conducive to infestation, presents a fire hazard or constitutes a blighting or deteriorating influence on the neighborhood.

(g) Vegetation. No premises shall contain uncontrolled growths of vegetation and all trees, hedges and other plantings shall be kept trimmed so as to avoid interference with persons or vehicles passing on public ways, easements or adjoining private property. (1992 Code, § 4-404)

12-705. Inspections and right of entry. (1) Inspections authorized. The chief of fire and police may make regular inspections to determine the condition of buildings, dwellings, dwelling units, rooming units and premises located within the town for the purpose of safe-guarding the health and safety

of all occupants and of the general public. The chief of fire and police may make such inspections whenever he shall deem such an inspection necessary; provided, however, that such inspections must be made at reasonable times and upon reasonable notice to, and with the consent of, the owner or operator and the occupant, except when an existing emergency requires immediate action.

(2) Legal process not required. Except where the owner or operator or occupant refuses entry, an order of court, subpoena or other legal process shall not be necessary to any entry, examination or survey in connection with the inspections authorized by this section.

(3) Inspection upon warrant. Whenever the chief of fire and police or his delegate, after presentation of proper credentials and request for entry to inspect, is refused access to any building, dwelling, dwelling unit or rooming unit, the chief of fire and police is authorized to petition any judge for the issuance of a search warrant authorizing the inspection of such building, dwelling, dwelling unit or rooming unit for the purpose of making such inspections as shall be necessary to the enforcement of the provisions of this chapter.

(4) Owner's right of entry. Every occupant of a building, dwelling, dwelling unit or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such building, dwelling, dwelling unit or rooming unit, or its premises, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter. Entry pursuant to this subsection shall be made only at reasonable times and after reasonable notice to the occupant unless an existing emergency requires immediate action. (1992 Code, § 4-405)

12-706. Notice of violations. (1) Notice required. Whenever in the opinion of the chief of fire and police any violation of the provisions of this chapter is found to exist, he shall, within ten (10) days after discovery thereof, serve written notice of such alleged violation upon the owner, operator or occupant responsible therefor.

(2) Method of service. Notice shall be given either by personal service or by mailing a copy thereof to the alleged violator by certified mail, return receipt requested, at his last known address or, in the event neither of these is effective to actually notify the alleged violator, by posting a copy thereof in a conspicuous place in or about the building containing the alleged violation.

(3) Required contents. Such notice may include more than one (1) alleged violation, shall demand compliance with this chapter, and shall specify a period of time for compliance, which shall be such time as, in the opinion of the chief of fire and police, is reasonably required to effect changes necessary for compliance.

(4) Permissible contents. Such notice may contain an outline of remedial action which if taken will effect compliance with the provisions of this

chapter and with any rules and regulations adopted pursuant thereto. (1992 Code, § 4-406)

12-707. Effect of non-compliance. If any alleged violation, of which notice has been given in conformity with § 12-706, is not corrected or eliminated within the time specified in such notice, then:

(1) Violator subject to penalty. The responsible owner, operator or occupant shall be subject to the penalty provisions as set out in § 5 of the adopting ordinance of this municipal code of ordinances.

(2) Designation of dwelling as unfit for human habitation. The dwelling, dwelling unit or rooming unit shall be designated as unfit for human habitation in accordance with the procedures established by § 12-708.

(3) Designation of dwelling as dangerous and a public nuisance. Where the alleged violations are of such a nature or extent that, in the opinion of the chief of fire and police, they render the building, dwelling, dwelling unit, rooming unit, or any part thereof, unsafe and dangerous to the life, safety, morals or the general health and welfare of the occupants or the residents of the town, or where the building, dwelling, dwelling unit, rooming unit, or part thereof, is uncompleted or has been abandoned, the chief of fire and police shall declare and designate the building, dwelling, dwelling unit, rooming unit, or part thereof, as dangerous and a public nuisance in accordance with the procedures of § 12-710.

(4) Removal of debris. The chief of fire and police may provide for the removal of garbage and debris from private property when the owner of such property, after notice pursuant to § 12-706, refuses or neglects to remove such garbage and debris, and may collect from such owner the reasonable cost thereof. This cost is a lien upon the real estate affected, superior to all subsequent liens and encumbrances, except tax liens, if within sixty (60) days after such cost and expense is incurred the town clerk, in the name of the town, files notice of lien in the office of the Register of Deeds in Hamilton County. The notice of lien shall consist of a sworn statement setting out:

(a) A description of the real estate sufficient for identification thereof;

(b) The amount of money representing the cost and expense incurred or payable for the service; and

(c) The date or dates when such cost and expense was incurred by the municipality.

However, the lien shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the garbage and debris and prior to the filing of such notice, and the lien shall not be valid to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Town of Lookout Mountain

and the release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. Suit to foreclose this lien shall be commenced within two (2) years after the date of filing notice of lien.

(5) Exception. No person acting as managing agent or collector of rents of any property involved in any proceeding because of violations or alleged violations of the provisions of this chapter shall be liable therefor if such person shall, within five (5) days after receipt of notice of any alleged violations or of summons, have notified the owner or owners of the property, or the employer of such person, of the purported violation or violations of any provision or provisions of this chapter in writing, by certified mail, return receipt requested, and shall have delivered to the chief of fire and police a copy of such notice, with proof of service thereof on the owner or owners or the employer of such person. (1992 Code, § 4-407)

12-708. Designation of dwelling as unfit for human habitation--procedures. Whenever any dwelling, dwelling unit or rooming unit is subject to designation as unfit for human habitation under the provisions of § 12-707(2), the chief of fire and police shall carry out such designation in compliance with the following procedures:

(1) Notice and placarding. The chief of fire and police shall serve notice of the designation of the dwelling, dwelling unit or rooming unit as unfit for human habitation upon the owner, operator and occupant thereof. Service shall be by certified mail, return receipt requested, and by posting of a placard at each entrance of the affected dwelling, dwelling unit or rooming unit.

(2) Contents. The notices and placards required by subsection (1) hereof shall state that the affected dwelling, dwelling unit or rooming unit is by such notice or placard declared to be unfit for human habitation in accordance with the provisions of this chapter; shall state the specified uncorrected violations of this chapter leading to such designation and the person or persons responsible for the correction thereof; and shall order the affected dwelling, dwelling unit or rooming unit to be vacated within a specific reasonable period of time as determined by the chief of fire and police, which may be immediately where conditions exist presenting immediate hazards to human life, health or safety. Such notices and placards shall further state the right of any aggrieved person to file an appeal pursuant to § 12-715 of this chapter within thirty (30) days of the date of the receipt of such notice.

(3) Defacing or removing placard. No person shall deface or remove the placard required by subsection (1) hereof from any dwelling, dwelling unit or rooming unit which has been designated as unfit for human habitation and placarded as such, except as provided in § 12-709(2) of this chapter. (1992 Code, § 4-408)

12-709. Effect of designation of dwelling as unfit for human habitation. (1) Vacation required. Any dwelling, dwelling unit or rooming unit designated as unfit for human habitation shall be vacated within the time specified by the chief of fire and police pursuant to the provisions of § 12-708 of this chapter.

(2) Conditions for resumption of human habitation. No dwelling, dwelling unit or rooming unit which has been designated as unfit for human habitation in accordance with § 12-708 of this chapter shall again be used for human habitation until written approval is secured from, and the placard so designating it is removed by, the chief of fire and police, who shall remove such placard only when the defects upon which the designation was based have been eliminated, and after the dwelling, dwelling unit or rooming unit has been inspected and found to comply in all respects with the requirements of this chapter. (1992 Code, § 4-409)

12-710. Designation of building or dwelling as dangerous and a public nuisance--procedures. Whenever any building, dwelling, dwelling unit, rooming unit, or any part thereof, is subject to designation as dangerous and a public nuisance under the provisions of § 12-707(3) of this chapter, the chief of fire and police shall carry out such designation in compliance with the following procedures:

(1) Notice and placarding. The chief of fire and police shall serve notice of the designation of the building, dwelling, dwelling unit, rooming unit, or part thereof, as dangerous and a public nuisance, upon the owner, operator, occupant and lien holders of record. Service shall be by certified mail, return receipt requested, and by posting a placard at each entrance of the affected building, dwelling, dwelling unit or rooming unit. Where the identity or whereabouts of the owner or lien holder cannot be ascertained, notice mailed to the person or persons in whose name the premises were last assessed shall be sufficient notice.

(2) Contents. The notices and placards required by subsection (1) hereof shall state that the affected building, dwelling, dwelling unit or rooming unit, or part thereof, is by such notice or placard declared to be dangerous and a public nuisance in accordance with the provisions of this chapter; shall state the specific alleged uncorrected violations of this chapter deemed sufficient to justify such designation; and shall further state that such designation may result in an order for demolition. Such notice shall require the party to appear before the chief of fire and police, at a hearing to be held at a specified place and time, not less than ten (10) days following the date of the notice, to show cause why the designated building, dwelling, dwelling unit, rooming unit, or part thereof, should not be vacated and repaired or demolished in accordance with the provisions of this chapter.

(3) Defacing or removing placard. No person shall deface or remove the placard required by subsection (1) hereof from any building, dwelling,

dwelling unit, rooming unit, or part thereof, which has been designated as dangerous and a public nuisance, except as provided in § 12-711(5) of this chapter.

(4) Hearing and findings. At the appointed time and place, the chief of fire and police shall hear such testimony as the interested parties shall offer relative to the designated building, dwelling, dwelling unit, rooming unit, or part thereof, and shall, based on such testimony and his investigation, make written findings of fact as to whether the building, dwelling, dwelling unit or rooming unit is properly designated as dangerous and a public nuisance. (1992 Code, § 4-410)

12-711. Effect of designation of building or dwelling as dangerous and a public nuisance. (1) Order. Upon a finding pursuant to § 12-710 that the building, dwelling, dwelling unit, rooming unit, or part thereof, has been properly designated as dangerous and a public nuisance, the chief of fire and police shall issue an order to the owner, operator, occupant and lien holders of record, commanding the owner to vacate and repair or demolish the building, dwelling, dwelling unit, rooming unit, or part thereof; authorizing any lien holder of record to demolish such building, dwelling, dwelling unit, rooming unit, or part thereof, at his own risk to prevent the attachment of a town lien, as provided in subsection (4) hereof; and shall authorize any person so notified to vacate or repair such building, dwelling, dwelling unit, rooming unit, or part thereof.

(2) Petition to circuit court. Unless the designated building, dwelling, dwelling unit, rooming unit, or part thereof, shall have been vacated and the repair or demolition thereof commenced within fifteen (15) days of the issuance of an order pursuant to subsection (1) hereof, the mayor and board of commissioners of the town shall petition the circuit court of the county in which the premises are located, for an order requiring such vacation and authorizing such demolition or repair.

(3) Repair or demolition by town. Upon receipt of an order of court authorizing such action, the chief of fire and police shall cause the designated building, dwelling, dwelling unit, rooming unit, or part thereof, to be repaired or demolished, as the facts may warrant, by the town. Provided, however, that where the chief of fire and police finds it to be in the best interest of the town and its residents, he shall notify the mayor and board of commissioners of the town and request them to take all actions necessary to compel repair or demolition by the owner, including the application for an injunction.

(4) Lien for repairs or demolition. The costs of any vacation, repair or demolition undertaken pursuant to this chapter by the town, or any lien holder of record, shall be recoverable from the owner of the premises and shall be a lien upon such premises.

(5) Conditions for resumption of use. No building, dwelling, dwelling unit, rooming unit, or part thereof, which has been designated as dangerous and

a public nuisance in accordance with § 12-710 of this chapter shall again be used for any purpose until and unless written approval is secured from, and the placard so designating it is removed by the chief of fire and police, who shall remove such placard only when the defects upon which the designation was based have been eliminated, and after the building, dwelling, dwelling unit, rooming unit, or part thereof, has been inspected and found to comply in all respects with the requirements of this chapter. (1992 Code, § 4-411)

12-712. Emergency cases. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a building, dwelling, dwelling unit, rooming unit, or part hereof, is immediately repaired or demolished, the chief of fire and police shall request the mayor and board of commissioners to waive all provisions of §§ 12-705 to 12-715 and to proceed directly to secure a demolition order, and the mayor and board of commissioners may, in their discretion, so proceed. (1992 Code, § 4-412)

12-713. Assistance of town attorney. Whenever any person fails, refuses or neglects to obey an order issued pursuant to this chapter or in any other manner does not comply with the duties imposed upon him by this chapter, the chief of fire and police may notify the town attorney of the circumstances and request the town attorney to institute such legal action as may be required to effect compliance. (1992 Code, § 4-413)

12-714. Imposition of penalty no bar to legal action. The imposition of any penalty pursuant to this chapter shall not preclude the town from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance; to restrain, correct or abate a violation; to prevent the occupancy of a building, dwelling or dwelling unit; to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules or regulations, or the orders and determinations of the chief of fire and police. (1992 Code, § 4-414)

12-715. Appeals. Appeals may be taken to the Board of Commissioners of the Town of Lookout Mountain, by the following persons, at the following times, in the following manner, and with the following effects:

(1) **Scope of appeal.** An appeal may be taken from any decision of the chief of fire and police, made pursuant to the authority conferred by this chapter, which finds a violation of any provision of this chapter; designates any dwelling, dwelling unit or rooming unit unfit for human habitation or dangerous and a public nuisance; orders the vacation, repair or demolition of any dwelling, dwelling unit or rooming unit; refuses to authorize the resumption of human habitation in any dwelling, dwelling unit or rooming unit; interprets this chapter; or which in any other manner adversely affects an owner, operator or

occupant of a dwelling, dwelling unit or rooming unit subject to the provisions of this chapter.

(2) Persons entitled to appeal. Any person aggrieved by a decision within the scope of subsection (1) hereof may appeal from such decision.

(3) Time for appeal. An appeal shall be commenced within thirty (30) days of the date of the receipt of notice of the decision appealed from. Appeals not commenced within such time shall be deemed waived.

(4) Commencement of appeal. An appeal under this section shall be commenced by filing with the chief of fire and police a notice of appeal, specifying the grounds thereof, and by filing said appeal and a copy of said notice of appeal with the mayor. The chief of fire and police shall forthwith transmit to the mayor all of the papers constituting the records upon which the decision from which appeal has been taken was made. The notice of appeal and the appeal itself shall be filed in such number of copies, be in such form, and contain such information as the board may provide from time to time by general rule.

(5) Stay pending appeal. An appeal shall stay all proceedings in furtherance of the decision appealed from and all duties imposed thereby, unless the chief of fire and police certifies to the board of commissioners, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate hazards to human life, health or safety; in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or a court of record upon application following notice to the chief of fire and police and upon due cause shown. Any stay in effect pursuant to this subsection shall continue until a decision on the appeal is rendered pursuant to subsection (6) hereof.

(6) Action on appeal. The board shall select a reasonable time and place for a public hearing on the appeal, shall give due notice thereof to the parties having a known interest therein and shall render a written decision without unreasonable delay. Upon the concurring vote of a majority of its members then holding office, the board may reverse or affirm, in whole or in part, or may modify, the decision from which the appeal was taken, and to that end the board shall have all the powers of the chief of fire and police with respect to such decision. (1992 Code, § 4-415)

12-716. Notice of suspected abandonment. (1) Whenever a dwelling has been unoccupied for a period of sixty (60) days, the Town of Lookout Mountain shall serve written notice upon the owner and any operator, lessee, or mortgagee of the dwelling unit that the dwelling unit may be designated as an abandoned dwelling unit within thirty (30) days after service of the notice required by this section.

(2) Method of service. Notice shall be given by personal service or by mailing a copy thereof to the owner and any operator, or lessee or mortgagee of the suspected abandoned dwelling unit by certified mail, return receipt

requested, at his or her last know address. In the event that notice by mail is ineffective to effect actual notice to the owner, or to any operator, lessee or mortgagee of the dwelling unit, notice of the suspected abandonment shall be published in a newspaper of general circulation in the area and a copy of the notice required by this section shall be posted in a conspicuous place on or about the suspected abandoned dwelling unit.

(3) Required contents. Such notice shall inform the owner, and any operator, lessee or mortgagee of the suspected abandoned dwelling unit that unless the dwelling unit is reoccupied within thirty (30) days after service of the notice required by this section, the dwelling unit shall be designated as an abandoned dwelling unit and shall be posted as such and subject to reinspection and the issuance of an occupancy permit in the manner provided herein. (1992 Code, § 4-416)

12-717. Effect of notice. If a suspected abandoned dwelling unit is not reoccupied within thirty (30) days after service of the notice required by § 12-716, the dwelling unit shall be designated as an abandoned dwelling unit. (1992 Code, § 4-417)

12-718. Designation of dwelling units as an abandoned dwelling unit. Whenever any dwelling unit is subject to designation as an abandoned dwelling unit, the chief of fire and police shall carry out such designation in compliance with the following procedures:

(1) Notice and placarding. The chief of fire and police shall service notice of the designation of the dwelling unit as an abandoned dwelling upon the last owner, and operator, lessee or mortgagee. Service shall be certified mail, return receipt requested, and by posting a placard at each entrance of the affected dwelling unit. Where the identity or whereabouts of the owners, operators, lessee or mortgagee cannot be ascertained, notice shall be mailed to the person or persons to whom the last tax bill was mailed.

(2) Contents. The notices and placards required by subsection (1) hereof shall state that the affected dwelling unit is by such placard declared to be an abandoned dwelling unit within the meaning of § 12-716; and shall further state that inspection of the abandoned dwelling unit by the chief of fire and police shall be required prior to occupancy of the dwelling unit by an owner, operator or lessee and that it is unlawful to reoccupy an abandoned dwelling unit unless and until an occupancy certificate for such dwelling unit has been issued by the chief of fire and police. Such notice shall state that any person intending to occupy the abandoned dwelling unit shall notify the chief of fire and police five (5) days prior to occupancy of the abandoned dwelling unit.

(3) It shall be unlawful to remove or deface the placard required by subsection (1) hereof from any dwelling unit which has been designated as an abandoned dwelling unit, except as provided in § 12-719 of this chapter. (1992 Code, § 4-418)

12-719. Effect of designation of dwelling unit as abandoned dwelling unit. (1) Any dwelling unit designated as an abandoned dwelling unit shall be subject to inspection by the chief of fire and police prior to occupancy of the dwelling unit.

(2) No dwelling unit which has been designated as an abandoned dwelling unit in accordance with § 12-718 shall again be used for any purpose until and unless written approval is secured from, and the placard so designating the dwelling unit as an abandoned dwelling unit is removed by the chief of fire and police, who shall remove such placard only after the dwelling unit has been inspected.

(3) The chief of fire and police shall not issue an occupancy permit for the abandoned dwelling unit unless and until the abandoned dwelling unit has been inspected and found to comply in all respects with the requirements of this chapter. (1992 Code, § 4-419)

12-720. Fee for inspection of abandoned dwelling unit. The fee for inspection of an abandoned dwelling unit shall be fifteen dollars (\$15.00). (1992 Code, § 4-420)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. CONTROL AND ERADICATION OF KUDZU.
3. ABANDONED PROPERTY AND VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

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

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1992 Code, § 8-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1992 Code, § 8-102)

13-103. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town clerk or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1992 Code, § 8-103)

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

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

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

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

(a) A brief statement that the owner is in violation of § 13-104 of the Lookout Mountain Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city/town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city/town may bring one (1) action for debt against

more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Hamilton County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

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

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

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

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city/town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds,

underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the clerk and dispose of such animal in such manner as the clerk shall direct. (1992 Code, § 8-105)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1992 Code, § 8-106)

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

CHAPTER 2

CONTROL AND ERADICATION OF KUDZU

SECTION

13-201. Purpose.

13-202. Right to inspect.

13-203. Notice to eradicate.

13-204. Enforcement of chapter.

13-201. Purpose. It is hereby established that the control and eradication of kudzu is of paramount importance to the preservation of the beauty and value of property within the town limits of the Town of Lookout Mountain, Tennessee. (1992 Code, § 8-401)

13-202. Right to inspect. Any designated agent of the town shall have authority to enter upon property within the town limits for the purpose of determining the existence and extent of growth of kudzu. (1992 Code, § 8-402)

13-203. Notice to eradicate. Upon a finding of kudzu growth, the designated agent of the town shall have the authority to advise the property owner and/or occupant in writing of the finding and shall also advise the owner and/or occupant of the existence of assistance for control and eradication of kudzu. The notice shall invite the owner or occupant to contact the town within ten (10) days to receive instruction in control and eradication of kudzu and to set up a timed program for implementing the control and eradication measures. (1992 Code, § 8-403)

13-204. Enforcement of chapter. In the event the owner or occupant fail to take appropriate steps to control and eradicate kudzu, the town may enter upon the property and apply control and eradication chemicals to the kudzu and charge the reasonable costs thereof to the owner and/or occupant of the land, and further may charge the cost thereof which shall become a municipal lien against the land until paid in full. (1992 Code, § 8-404)

CHAPTER 3

ABANDONED PROPERTY AND VEHICLES

SECTION

13-301. Definitions.

13-302. Abandoning prohibited.

13-303. Leaving nonoperating, junked vehicle on street prohibited.

13-304. Allowing on property.

13-305. Removal of violations.

13-306. Forfeiture of unclaimed personal property.

13-307. Sale of unclaimed personal property.

13-308. Disposition of proceeds of sale of personal property; report of expense.

13-309. Violations and penalty.

13-301. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Property" shall mean any real property within the town which is not a street or highway or public right-of-way.

(2) "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (1992 Code, § 8-601)

13-302. Abandoning prohibited. No person shall abandon any vehicle within the town, and no person shall leave any vehicle at any place within the town, for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (1992 Code, § 8-602)

13-303. Leaving nonoperating, junked vehicle on street prohibited. No person shall leave any partially dismantled, nonoperating, wrecked, or junked vehicle on any street, alley or highway within the town, or on any public right-of-way. (1992 Code, § 8-603)

13-304. Allowing on property. No person in charge or control of any property within the town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially or wholly dismantled, nonoperating, wrecked, junked, or discarded vehicle to remain on such property longer than seventy-two (72) hours; except that this division shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage

place or depository maintained in a lawful place and manner by the town or other governmental authority. (1992 Code, § 8-604)

13-305. Removal of violations. (1) The chief of the police department, or any member of his department designated by him, are hereby authorized to remove or have removed any vehicle left at any place within the town which reasonably appears to be in violation of this chapter, or is lost, stolen, or unclaimed. Such vehicle shall be impounded at the cost of the owner until lawfully claimed or disposed of in accordance with §§ 13-308 and 13-309 hereof.

(2) The chief of police, or any member of his department so designated, shall, if possible, give notice to the owner or tenant of real property upon which a violating vehicle is located or in whose name a violating vehicle is titled, giving such person or persons a period of time of at least seventy-two (72) hours after notice to remove or otherwise dispose of the violating vehicle. If such violating vehicle is not removed at the end of this period, the offending person shall be cited to the municipal court for violation of this chapter and such citation shall be heard at the first available court date. (1992 Code, § 8-605)

13-306. Forfeiture of unclaimed personal property. All unclaimed personal property which comes into the possession of the police department shall, if it remains unclaimed for a period of thirty (30) days thereafter, be delivered to the town marshal, to be forfeited and disposed of by him. The town marshal, before selling same, shall make every reasonable effort to give actual notice to the owner thereof if such has not been done by the department that came into possession of same. (1992 Code, § 8-607)

13-307. Sale of unclaimed personal property. At intervals during each year, the town marshal shall hold a public sale of unclaimed personal property delivered to him. Notice of sale, giving the time and place, shall be by advertisement at least once in all daily newspapers published in the town at least ten (10) days prior to the time set for the sale. Such sale shall be made at public auction to the highest bidder for cash, and shall be conducted by the town marshal or some person designated by him. The town marshal shall furnish the town treasurer a list to be kept of all articles sold and the price for which each article was sold. If, however, it is more advantageous and less costly, the town marshal may arrange for a private sale of the property. (1992 Code, § 8-608)

13-308. Disposition of proceeds of sale of personal property; report of expense. (1) The money received from the sale of unclaimed personal property, as provided in this chapter, shall be paid by the town marshal into the town treasury, and he shall certify to the town treasurer the expense incurred in making the sale or otherwise disposing of such personal property, including the cost and expense of storage during the period such personal property was in possession of the town.

(2) In the event the owner of any article of personal property sold shall, within a period of thirty (30) days after the sale, present satisfactory proof to the town that he was the owner of any article sold, he shall be entitled to the proceeds of the sale thereof, less the expenses of the sale.

(3) The net proceeds arising from sales of all unclaimed personal property shall be paid by the town treasurer into the general fund of the town. (1992 Code, § 8-609)

13-309. Violations and penalty. Any person violating any of the provisions of this chapter shall be punished by a fine or not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such. Further, if such violating vehicle is not removed at the end of that period or any period set by the court, such vehicle shall be impounded and disposed of as in § 13-305. (1992 Code, § 8-606)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. COMMUNICATION RADIO TOWERS.
4. WIRELESS COMMUNICATION TOWERS AND STRUCTURES.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Regional planning commission designated as municipal planning commission.

14-101. Regional planning commission designated as municipal planning commission. Pursuant to authority provided in *Tennessee Code Annotated*, § 13-3-301, the Chattanooga-Hamilton County Regional Planning Commission is hereby designated as the municipal planning commission of the Town of Lookout Mountain. (1992 Code, § 11-101)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Lookout Mountain shall be governed by ordinance adopted June 13, 1972, titled "Zoning Ordinance, Town of Lookout Mountain, Tennessee," and any amendments thereto.¹ (1992 Code, § 11-201)

¹This ordinance, and any amendments thereto, are published as separate documents and are of record in the office of the town clerk.

CHAPTER 3

COMMUNICATION RADIO TOWERS

SECTION

- 14-301. Towers prohibited.
- 14-302. Existing towers.
- 14-303. Permit required.
- 14-304. Application for a permit.
- 14-305. Zoning variance required.
- 14-306. Permit fees.
- 14-307. Registration.
- 14-308. Revocation of permit.
- 14-309. Ordered removal of equipment.
- 14-310. Exemptions.
- 14-311. Violations and penalty.

14-301. Towers prohibited. It is the policy of the town that construction of communication radio towers and antennas for business or public use within the town is prohibited. This prohibition does not apply to cell phone towers for voice and data transmission covered by chapter 4 of this title. (Ord. #91, Nov. 2013)

14-302. Existing towers. Existing towers and antennas may continue in use, provided, however, that such towers or antennas shall not be altered or enlarged in any fashion except where "state of the art" improvements can be shown by application to the chief of police, to reduce the objections of the town with respect to efficiency or aesthetics of the facility, otherwise those existing towers or antennas may not be altered or enlarged. If they are removed, they cannot be replaced or rebuilt. No frequencies may be added at any location without a permit as specified in §§ 11-303 to 11-307 herein. (Ord. #91, Nov. 2013)

14-303. Permit required. Any owner or occupant of property within the town, who desires to add frequencies or change frequencies on an existing antenna or radio tower on his property, shall apply to the chief of police, for a permit authorizing same. (Ord. #91, Nov. 2013)

14-304. Application for a permit. Each application for a permit shall be signed by the owner or occupant of the property upon which the radio tower or antenna is located, and by the licensee company or agency for whom the frequency will be operated, and shall be accompanied by the following:

- (1) The frequency and power to be used and the anticipated hours of operation;

(2) Written consent of all owners of property contiguously adjacent to the property; and

(3) A statement signed by the property owner and licensee agency or company certifying that the radio frequency:

(a) Will not interfere with radio and television reception or telephone communication of any citizen of the town or with operation of any other electrical apparatus; and

(b) Will not endanger in any manner safety or property of any persons. (Ord. #91, Nov. 2013)

14-305. Zoning variance required. No permit for any such radio frequency addition or change will be issued to any applicant unless a variance from the zoning ordinance has been granted in accordance with the provisions of that ordinance for construction of a radio communication tower or antenna. (Ord. #91, Nov. 2013)

14-306. Permit fees. Upon approval of an application to add or change any radio frequency under this chapter, an installation permit will be issued to the applicant upon payment of an installation permit fee of two hundred fifty dollars (\$250.00). (Ord. #91, Nov. 2013)

14-307. Registration. On or before the tenth day of January of each year, each communication radio tower or antenna and each additional radio frequency transmitted or received within the town shall be registered with, and a permit for the maintenance thereof shall be obtained from, the chief of police. An annual registration fee of three hundred dollars (\$300.00) for each antenna or radio communication tower and for each additional frequency transmitted or received (or for each frequency utilized by a community repeater shared usage station or those of similar nature) shall be paid by the property owner on which the equipment is located. The registration will be signed by the property owner and a responsible officer of the company or agency operating the equipment attesting to the number of antennas, radio communication towers and frequencies which shall be listed thereon. (Ord. #91, Nov. 2013)

14-308. Revocation of permit. (1) Any permit issued authorizing the maintenance, alteration or enlargement of communication radio equipment tower or antenna may be revoked by the board of commissioners if it finds that such installation:

(a) Endangers the safety of any person or the property of any person;

(b) Interferes with radio or television reception or telephone communication of any citizen of the Town of Lookout Mountain; or

(c) Interferes with the operation of any electrical apparatus of any citizen of the Town of Lookout Mountain. No revocation shall be

ordered by the board of commissioners, however, unless it has received a signed complaint in writing from an affected person nor until after a public hearing upon such complaint.

(2) Notice of such hearing shall be mailed by regular mail not less than ten (10) days in advance of the hearing to the owner or occupant of the property upon which the tower or antenna is constructed, the licensee using the installation (and any other person or agency against whom complaint is made), owners or occupants of contiguously adjacent property, complainant, and any other persons requested by complainant or by any person against whom complaint is made.

(3) Upon issuance of any order of revocation, any radio equipment, tower or antenna affected by such order shall be removed promptly by the person against whom the order is issued. (Ord. #91, Nov. 2013)

14-309. Ordered removal of equipment. The Town of Lookout Mountain may, in addition to any other remedies provided herein, order the removal of any communication radio broadcast towers and antennas and related equipment or facilities with respect to which any property owner, occupant, licensee, company or other person or entity has not complied with the provisions of this chapter relating to application for a permit, registration, or payment of construction or registration fees. If such equipment is not removed within thirty (30) days after written notice is served upon the owner or occupant of such property, the town may remove such equipment, and the reasonable cost of removal shall become a lien upon the property upon which such equipment was situated. (Ord. #91, Nov. 2013)

14-310. Exemptions. The following antennas or radio communication towers and related frequencies are exempt from the payment of annual fees due to their public service function:

- (1) Easter Seals (1);
- (2) Federal Bureau of Investigation (2);
- (3) Tennessee American Water Company (1);
- (4) Red Cross (3); and
- (5) City of Chattanooga Police Department (9). (Ord. #91, Nov. 2013)

14-311. Violations and penalty. Violations of this chapter are subject to the penal provisions of this municipal code, and each day's violation shall constitute a separate and distinct offense. (Ord. #91, Nov. 2013)

CHAPTER 4

WIRELESS COMMUNICATION TOWERS AND STRUCTURES

SECTION

- 14-401. Definitions.
- 14-402. Purpose and goals.
- 14-403. Applicability.
- 14-404. Registration of WCFs and TCFs.
- 14-405. Development standards.
- 14-406. Approval procedure.
- 14-407. Temporary communications facilities.
- 14-408. Shared facilities and co-location policy.
- 14-409. Existing WCFs and TCFs.
- 14-410. Coordination with federal law.

14-401. Definitions. (1) "Antenna array" is one (1) or more devices used for the transmission and/or reception of electromagnetic signals, which may include omni-directional antennas, directional antennas, parabolic antennas, microwave dishes or horns and other types of equipment for the transmission and/or receipt of such signals. The antenna array does not include the support structure defined below.

(2) "Attached wireless communication facility" ("WCF") or "attached telecommunications facility" ("TCF") is an antenna array that is attached to an existing building or structure ("attachment structure"), which structures shall include but not be limited to utility poles, signs, water towers, with any accompanying pole devices ("attachment device") which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.

(3) "Co-location/site sharing" means the use of a common WCF or TCF or common site by two (2) or more wireless license holders or by one (1) wireless license holder for more than one (1) type of communications technology and/or placement of a WCF or TCF on a structure owned or operated by a utility or other public entity.

(4) "Equipment facility" is any structure used to contain ancillary equipment for WCFs and TCFs which include cabinets, shelters, a build-out of an existing structure, pedestals, and other similar structures.

(5) "Height." When referring to a WCF or TCF, height shall mean the distance measured from the surface of the naturally occurring terrain to the highest point on the WCF or TCF, including the antenna array.

(6) "Review process" means that process set forth in §§ 14-405 and 14-406 below.

(7) "Set back" shall mean the required distance from the property line of the parcel on which the WCF or telecommunication facility is located to the support structure.

(8) "Support structure" is a structure designed and constructed specifically to support an antenna array, and may include a monopole and other similar structures. Any attachment device which is used to attach an attached WCF to an attachment structure shall be excluded from the definition in regulations applicable to support structures.

(9) "Telecommunications facility" is a facility, other than a WCF that transmits and/or receives electromagnetic signals and may include omni-directional antennas, directional antennas, parabolic antennas, microwave dishes or horns, and other types of equipment for the transmission and/or receipt of such signals.

(10) "Temporary communication facility" shall mean a WCF or TCF which is to be placed in use for a limited period of time, is not deployed in a permanent manner, and does not have a permanent foundation.

(11) "Wireless communications" shall mean any personal wireless services as defined in the *Tennessee Code Annotated*, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services ("PCS") specialized mobile radio ("SMR"), enhanced specialized mobile radio ("ESMR"), paging, and similar services that currently exist or that may in the future be developed.

(12) "Wireless communication facility" or "WCF" is any unstaffed facility for the transmission and/or reception of wireless communication services, usually consisting of an antenna array, transmission cables, an equipment facility, and a support structure to achieve the necessary elevation. (Ord. #91, Nov. 2013)

14-402. Purpose and goals. (1) The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the placement of WCFs and TCFs. The regulations contained herein are designed to protect and promote the public health, safety, community welfare and the aesthetic quality of the Town of Lookout Mountain; while at the same time not unduly restricting the development of needed WCFs and TCFs.

(2) The goals of this chapter are to:

(a) Protect the visual character of the town from the potential adverse effects of WCFs and TCFs;

(b) Provide the permissible locations for WCFs and TCFs within the Town of Lookout Mountain;

(c) Within the permissible locations, provide clear performance standards addressing the siting of WCFs and TCFs;

(d) Encourage the location of WCFs and TCFs on existing structures, including utility poles, signs, water towers, buildings and other WCFs and TCFs; and

(e) Encourage co-location and site sharing of new and existing WCFs and TCFs. (Ord. #91, Nov. 2013)

14-403. Applicability. (1) Pre-existing WCFs and TCFs. WCFs and TCFs for which a permit has been issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter unless altered or changed in any way. Upon such change the provision of this chapter shall be complied with.

(2) Relationship to other ordinances. This chapter shall supersede all conflicting requirements of other codes and ordinances regarding the locating and permitting of WCFs and TCFs. (Ord. #91, Nov. 2013)

14-404. Registration of WCFs and TCFs. (1) Registration requested. All existing and applicant telecommunications carriers and providers that offer or provide any telecommunications services for a fee directly to the public, either within the Town of Lookout Mountain, or outside the corporate limits from telecommunications facilities within the town by way of a WCFs or operating TCFs, shall register with the town pursuant to this chapter on forms to be provided by the town, which shall include the following:

(a) The identity and legal status of the registrant, including any affiliates.

(b) The name, address and telephone number of the individual, officer, agent or employee responsible for the accuracy of the registration statement.

(c) A narrative and map description of the registrant's existing or proposed WCFs or TCFs within the town.

(d) A description of the telecommunications services, if any, that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the town.

(e) Information sufficient to determine that the applicant has applied for and received any construction permit, operating license, or other approvals required by the Federal Communications Commission (FCC) to provide telecommunications services within the town.

(f) Such other information as the town may reasonably require.

(2) Registration fee. Each application for registration as a new telecommunications carrier or provider shall be accompanied by a fee of one thousand five hundred dollars (\$1,500.00).

(3) Purpose of registration. The purpose of registration under this section is to:

(a) Provide the town with accurate and current information concerning the telecommunications carriers and providers who offer or provide telecommunications services within the town or that own or operate TCFs within the town;

(b) Assist the town in enforcement of this chapter;

- (c) Assist the town in the collection and enforcement of any license fees or charges that may be due the town;
- (d) Assist the town in monitoring compliance with local, state and federal laws; and
- (e) Assist the town in collection and enforcement of annual registration fees applicable to antennas within the town and enforcement and collection of ground rents and revenue sharing agreements required hereunder. (Ord. #91, Nov. 2013)

14-405. Development standards. (1) Height and location standards.

(a) Location of TCFs and WCFs shall be permitted in any zone of the town but preference shall be granted for placement at municipally owned properties known as Fort Circle and the town maintenance facility. These locations are located properly and are deemed to provide adequate coverage potential.

(b) Monopole TCFs and WCFs may be built to such height as justified in the circumstances as determined in the discretion of the mayor and board of commissioners.

(2) Set back standards.

(a) Attached WCFs and TCFs. Antenna arrays for attached WCFs and TCFs are exempt from the set back standards of this section and from the set backs of the zone in which they are located. An attached WCFs or TCFs antenna array may extend up to five feet horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.

(b) Equipment facilities. All equipment facilities shall meet the set back requirements for buildings for the underlying zone in which they are located.

(c) WCFs and TCFs with support structures. WCFs and TCFs with support structures shall be located not closer than a distance equal to one hundred percent (100%) of the height of the WCFs or TCFs from any adjoining lot line. Guy-wires and appurtenant equipment and buildings shall comply with the set back requirements of the underlying zoning district in which the tower is located.

(3) Landscaping and screening. (a) Generally. In order to minimize the visibility of tower facilities, an evergreen landscape shall be erected if not already provided at the perimeter of the property on all four sides, so as to provide the maximum feasible screening as determined by the town commission. Any screen shall consist of a landscaped strip at least six feet (6') wide outside the perimeter of the compound, evergreen plants shall be a minimum of ten feet (10') in height when planted, shall have a growth potential of at least twenty feet (20') , and shall be planted in staggered rows spaced ten to twelve feet (10'-12') apart. In addition, a fence may be added which shall be a minimum of six feet (6') in height

and shall be of a style of construction that provides a visual shield of the facilities. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

(b) Maintenance of landscape screen and fencing. The required landscaping screening, and fencing if utilized, must be maintained at all times in a condition satisfying the requirements of this section by the owner of the lot on which the WCFs or TCFs is located or the party owning or operating the WCFs and/or TCFs. This requirement includes the obligation to replace any and all parts of the landscape screen and/or fencing that may be destroyed by weather or other force or event. Any dead or diseased plant material shall be replaced with new plantings that meet the requirements of this section. In the event that such landscape screen and/or fencing is not maintained as required by this section, the owner of the lot on which the WCFs or TCFs is located and the owner or operator of the WCFs or TCFs shall be jointly and severally liable for the cost incurred by the town in providing such maintenance.

(c) Performance bond required. Any party which owns or operates a WCFs or TCFs shall be required to obtain and provide to the town, at the time of application for the requisite permit, a performance bond ensuring compliance with the requirements of this section.

(4) Aesthetics/placement, materials and colors. (a) WCFs and TCFs. Every WCFs and TCFs and any support structure, shall be of neutral colors that are harmonious with, and that blend with, the natural features, buildings and structures surrounding such WCFs and TCFs and support structures; provided, however, that directional or panel antennas and omnidirectional or whip antennas located on the exterior of a building that will also serve as a support structure shall be of colors that match, and cause the antennas to blend with, the exterior of the building.

(b) Equipment facilities. Equipment facilities shall, to the extent practicable, use materials, colors and textures that will blend with the natural setting and built environment

(5) Lighting. WCFs and TCFs shall not be artificially lighted, except for:

(a) Shielded security and safety lighting. Security and safety lighting of equipment buildings if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and

(b) Federally required lighting. Such lighting of the WCFs or TCFs as may be required by the Federal Aviation Administration ("FAA"), FCC, or other applicable authority shall be installed in a manner to minimize impacts on adjacent residences.

(6) Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waiving, fluttering or revolving devices, but not including weather devices.

(7) Noise. No equipment shall be operated at a WCF or TCF so as to produce noise in excess of fifty (50) dBA between the hours of 10:00 P.M. and 7:00 A.M. Any noise measurements shall be made at the property line of the impacted property. When instrumentation cannot be placed at the property line, the measurement shall be made as close thereto as is reasonable. However, noise measurements shall not be made at a distance less than twenty-five feet (25') from a noise source.

(8) Security fencing. WCFs or TCFs with support structures shall be enclosed by a security fence not less than six feet (6') in height and the support structure shall be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate; however, nothing herein shall prevent security fencing which is necessary to meet other requirements of state or federal agencies.

(9) Radio frequency emissions. (a) Federal preemption. The Telecommunications Act of 1996 Pub. L. 104-104 (TCA) gives the Federal Communication Commission ("FCC") sole jurisdiction in the field of regulation of radio frequency ("RF") emissions and WCFs and TCFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts.

(b) Ongoing information. In order to provide information to its citizens, copies of ongoing FCC information concerning WCFs and radio frequency emission standards shall be available. Applicants for WCFs and TCFs shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

(10) Appurtenant equipment and buildings. (a) Antennas mounted on structures or roof tops. The equipment cabinet or structure to be used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

(b) Antennas mounted on utility poles, light poles or towers. The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

(11) Abandonment and obsolescence. Any WCF or TCF that is not operated for a continuous period of three (3) months shall be considered

abandoned, and the owner of such WCF or TCF shall remove the WCF or TCF within sixty (60) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such WCF or TCF is not removed within said sixty (60) days, the governing authority may remove the WCF or TCF and the owner of the lot on which the WCF or TCF is located and the owner or operator of the WCF or TCF shall be jointly and severally liable for the cost incurred by the town as a result of such removal. If there are two (2) or more users of a single WCF or TCF, then this provision shall not become effective until all users cease using the WCF or TCF. (Ord. #91, Nov. 2013, modified)

14-406. Approval procedure. (1) Permits. (a) Hearing body. The body that shall review and approve WCFs and TCFs pursuant to a hearing body review shall be the mayor and board of commissioners.

(b) Application contents. Each applicant requesting a permit subject to a hearing body review shall submit a scaled plan and scaled elevation view and other supporting drawings, prepared, approved, signed and sealed by a licensed professional engineer registered in the State of Tennessee, along with calculations and other documentation showing the location and dimensions of the WCF or TCF and all improvements associated therewith, including information concerning support structure specifications, antenna location, equipment facilities and landscaping. Each applicant shall also submit a scaled drawing of any existing adjacent structures, a site plan addressing drainage from the site, and if relevant, documentation and supporting drawings regarding topography and existing vegetation. Applicant shall present an acceptable ground lease of revenue sharing proposal to the town. The hearing body may require additional information relevant to its consideration of whether the application meets the development standard.

(c) Liability insurance. The owner(s) of a tower or antenna shall maintain, with financially sound and reputable insurers, insurance satisfactory to the mayor and board of commissioners with respect to such tower or antenna against such casualties and contingencies of such types and on such terms as is customary in the case of entities of established reputations as to similar towers or antennas in the amount of at least ten million dollars (\$10,000,000.00) as to any tower and at least two million dollars (\$2,000,000.00) as to any antenna located on an existing tower where the tower owner has met and continues to meet the requirements of this subsection (1)(c) to the satisfaction of the town, provided, however, that the mayor and board of commissioners may, in its sole discretion, elect to permit a tower or antenna owner to self-insure with respect to such risks, so long as such tower owner either:

(i) Has a Standard & Poor's or Moody's long term debt rating of A or better, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town; or

(ii) Is a United States government agency, such as the Tennessee Valley Authority, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town ("insurance"). Applicants seeking approval to build a tower shall provide proof of insurance to the town. Applicants seeking approval to place an antenna on an existing tower where the tower owner has met and continues to meet the requirements of the first paragraph of this subsection (1)(c) to the satisfaction of the mayor and board of commissioners shall provide proof of insurance concerning the proposed antenna to the town. The insurance policies described in this subsection (1)(c) that relate to such tower or antenna shall name the Town of Lookout Mountain, Tennessee, Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee and all employees and agents of and attorneys for the Town of Lookout Mountain, Tennessee as additional insureds.

(d) Notice. Notice of the application and a public hearing by the hearing body shall be given in accordance with the procedures under the zoning ordinance for notice of applications and hearings before the hearing body.

(e) Hearing. The hearing body shall render a decision on the application under the hearing body review after a public hearing is held in accordance with procedures specified by the zoning ordinance or regulations adopted by the hearing body.

(f) Review criteria. The review criteria to be applied by the hearing body are the development standards set forth in § 14-405, provided that in locations where the visual impact of the WCF would be minimal, the applicable development standards may be reduced or waived so long as the approval of the WCF meets the purpose and goals of this chapter as set forth in §§ 14-402 and 14-405.

(g) Findings. All decisions rendered by the hearing body under a hearing body review shall be supported by findings of fact and conclusions of law based upon substantial evidence in the record.

(h) Timing of decision. The hearing body shall render its decision within sixty (60) days of application, unless the hearing body can demonstrate that more time is required and that the time extension is agreed to by the applicant.

(2) Conditional Use Permits ("CUP"). (a) Approval body. The body that shall review and approve conditional use permits shall be the mayor and board of commissioners.

(b) Applicable contents. Each applicant requesting a CUP under this chapter shall submit a scaled plan and scaled elevation view and other supporting drawings, prepared, approved, signed and sealed by a licensed professional engineer registered in the State of Tennessee, along

with calculations and other documentation showing the location and dimensions of the WCF or TCF and all improvements associated therewith, including information concerning support structure specifications, antenna location, equipment facilities and landscaping. Each applicant shall also submit a scaled drawing of any existing adjacent structures, a site plan addressing drainage from the site, and if relevant, documentation and supporting drawings regarding topography and existing vegetation. Applicant shall present an acceptable ground lease or revenue sharing proposal to the town. The hearing body may require additional information relevant to its consideration of whether the application meets the development standard.

(c) Liability insurance. The owner(s) of a tower or antenna shall maintain, with financially sound and reputable insurers, insurance satisfactory to the mayor and board of commissioners with respect to such tower or antenna against such casualties and contingencies of such types and on such terms as is customary in the case of entities of established reputations as to similar towers or antennas in the amount of at least ten million dollars (\$10,000,000.00) as to any tower and at least two million dollars (\$2,000,000.00) as to any antenna located on an existing tower where the tower owner has met and continues to meet the requirements of this subsection (1)(c) to the satisfaction of the town, provided, however, that the mayor and board of commissioners may, in its sole discretion, elect to permit a tower or antenna owner to self-insure with respect to such risks, so long as such tower owner either:

(i) Has a Standard & Poor's or Moody's long term debt rating of A or better, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town; or

(ii) Is a United States government agency, such as the Tennessee Valley Authority, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the town ("insurance"). Applicants seeking approval to build a tower shall provide proof of insurance to the town. Applicants seeking approval to place an antenna on an existing tower where the tower owner has met and continues to meet the requirements of the first paragraph of this subsection (c) to the satisfaction of the mayor and board of commissioners shall provide proof of insurance concerning the proposed antenna to the town. The insurance policies described in this subsection (1)(c) that relate to such tower or antenna shall name the Town of Lookout Mountain, Tennessee, Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee and all employees and agents of and attorneys for the Town of Lookout Mountain, Tennessee as additional insureds.

(d) Notice. Notice of the application and a public hearing by the hearing body shall be given in accordance with the procedures under the zoning ordinance for notice of applications and hearings before the approval body.

(e) Hearing. The approval body may approve the application for a CUP after a public hearing is held in accordance with procedures specified by the zoning ordinance or regulations adopted by the approval body.

(f) Conditional use criteria. (i) Development standards. Every application for a CUP shall be reviewed for compliance with the development standards set forth in § 14-405 above; provided, that the applicable development standards may be reduced or waived so long as the approval of the WCF meets the goals and purpose of §§ 14-402 and 14-405 herein. The development standards may be increased as provided in subsection (f)(ii) below.

(ii) Conditional use conditions. The approval body may impose conditions in addition to the development standards if all of the following findings have been made:

(A) The WCF would result in probable significant adverse visual impacts on nearby residences;

(B) The conditions are based upon the purpose and goals of this chapter as set forth in § 14-402 and other adopted policies or regulations of the jurisdiction; and

(C) The conditions are reasonable and capable of being accomplished.

(g) Findings. All decisions rendered by the approval body under a CUP shall be supported by findings of fact and conclusions of law based upon substantial evidence in the record.

(h) Timing of decision. The approval body shall render its decision within sixty (60) days of application, unless the approval body can demonstrate that more time is required and the time extension is agreed to by the applicant. (Ord. #91, Nov. 2013)

14-407. Temporary communications facilities. Temporary communication facilities are permitted, upon the approval of the mayor and board of commissioners for a term to be determined in the discretion of the mayor and board of commissioners. (Ord. #91, Nov. 2013)

14-408. Shared facilities and co-location policy. (1) FCC licensed wireless communication providers and owners or operators of TCFs are encouraged to construct and site WCFs and TCFs with a view towards sharing facilities with other utilities, to co-location with other existing WCFs and TCFs and to accommodate the future co-location of other WCFs and TCFs where technically, practically, and economically feasible.

(2) FCC licensed wireless communication providers proposing a new WCF or TCF with a support structure shall demonstrate that a reasonable attempt was made to find a co-location site acceptable to engineering standards and that none was practically or economically feasible. (Ord. #91, Nov. 2013)

14-409. Existing WCFs and TCFs. (1) All WCFs and TCFs operative on the effective date of this chapter shall be allowed to continue their present usage. Routine maintenance, including replacement with a new tower or antenna of like construction and height, shall be permitted on such existing WCFs and TCFs. New construction other than routine maintenance shall comply with the requirements of this chapter.

(2) A WCF or TCF that has received town approval prior to the effective date of this chapter, in the form of either a building permit or conditional use exception, but has not yet been constructed or placed in operation shall be considered an existing facility so long as such approval is current and not expired. (Ord. #91, Nov. 2013)

14-410. Coordination with federal law. Whenever the governing authority finds that the application of this chapter would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this chapter may be granted. (Ord. #91, Nov. 2013)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. LICENSING REGISTRATION.

CHAPTER 1

MISCELLANEOUS²

SECTION

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

¹Municipal code reference

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

²State law references

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

- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-121. Delivery of vehicle to unlicensed driver, etc.
- 15-122. Child passenger restraint systems.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Adoption of state traffic statutes.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9. (1992 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1992 Code, § 9-102)

15-103. One-way streets. On any street for one (1) 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. (1992 Code, § 9-105)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

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

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1992 Code, § 9-106)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1992 Code, § 9-107)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1992 Code, § 9-108)

15-107. Miscellaneous traffic control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city/town unless otherwise directed by a police officer.

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

15-108. General requirements for traffic control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,² and shall be uniform as to type and location throughout the city/town.

15-109. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of

¹Municipal code references

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

²For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, *et seq.*

vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-110. 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 town authority. (1992 Code, § 9-112)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1992 Code, § 9-113)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1992 Code, § 9-114)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1992 Code, § 9-115)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1992 Code, § 9-116)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1992 Code, § 9-117)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after

sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1992 Code, § 9-118)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1992 Code, § 9-119, modified)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law," *Tennessee Code Annotated*, title 55, chapter 1 or the "Uniform Classified and Commercial Driver License Act of 1988, *Tennessee Code Annotated*, title 55, chapter 50." (modified)

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

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

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. (1992 Code, § 9-121)

15-120. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake

horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle 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.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, face shield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1992 Code, § 9-122)

15-121. Delivery of vehicle to unlicensed driver, etc. (1) Definitions.

(a) "Adult" shall mean any person eighteen (18) years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Lookout Mountain unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city/town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-122. Child passenger restraint systems. The provisions of *Tennessee Code Annotated*, § 55-9-602 as regards child passenger restraint systems/violations/penalties as amended by Chapter 299 of the Public Acts of 2003 of the State of Tennessee be adopted by reference herein as if set forth specifically and to be punishable as set forth in the provisions of *Tennessee Code Annotated*, § 55-9-602 as amended. (Ord. #121, Jan. 2004)

15-123. Compliance with financial responsibility law required.

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

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10,

parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under *Tennessee Code Annotated*, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

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

15-124. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city/town adopts by reference

as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the city/town adopts *Tennessee Code Annotated*, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-8-199 by reference as if fully set forth in this section.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1992 Code, § 9-201)

15-202. Operation of authorized emergency vehicles.

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

(2) 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.

(3) 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.

(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. (1992 Code, § 9-202)

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle

within the block where fire apparatus has stopped in answer to a fire alarm. (1992 Code, § 9-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (1992 Code, § 9-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of twenty-five (25) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1992 Code, § 9-301, modified)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1992 Code, § 9-302)

15-303. In school zones. Pursuant to *Tennessee Code Annotated*, § 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the mayor and board of commissioners has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1992 Code, § 9-303, modified)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1992 Code, § 9-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1992 Code, § 9-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerlines of the two (2) roadways. (1992 Code, § 9-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one 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. (1992 Code, § 9-404)

15-405. U-turns. U-turns are prohibited. (1992 Code, § 9-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At "stop" signs.
- 15-504. At "yield" signs.
- 15-505. At traffic control signals generally.
- 15-506. At flashing traffic control signals.
- 15-507. At pedestrian control signals.
- 15-508. Stops to be signaled.

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1992 Code, § 9-502)

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (1992 Code, § 9-503)

15-503. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1992 Code, § 9-504)

15-504. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1992 Code, § 9-505)

15-505. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

- (1) Green alone, or "Go:"

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution:"

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

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

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally 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 unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

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

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

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

such sign or marking the stop shall be made a vehicle length short of the signal. (1992 Code, § 9-506)

15-506. 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 § 15-504 of this code. (1992 Code, § 9-507)

15-507. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait" or "Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1992 Code, § 9-508)

15-508. 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. (1992 Code, § 9-509)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Lawful parking where a fee is required.
- 15-607. Unlawful to occupy more than one space.
- 15-608. Presumption with respect to illegal parking.
- 15-609. Overnight and long term parking at publicly owned property.

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

Except as hereinafter provided, every vehicle parked upon a street within this town 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 (1) way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than twenty-four (24) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1992 Code, § 9-601)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1992 Code, § 9-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the

street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1992 Code, § 9-603)

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

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(9) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(10) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(11) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(12) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped; or

(b) Parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, § 55-8-160(c). (1992 Code, § 9-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1992 Code, § 9-605)

15-606. Lawful parking where a fee is required. Any parking space regulated by a fee may be lawfully occupied by a vehicle only after proper payment is made. Directions for payment methods will be posted on signage in the parking area.

15-607. Unlawful to occupy more than one parking space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking space or otherwise so that such vehicle is not entirely within the designated parking space; provided, however, that the vehicles which are too large to park within one (1) space may be permitted to occupy two (2) adjoining spaces provided proper payment has been made.

15-608. 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. (1992 Code, § 9-612)

15-609. Overnight and long term parking at publicly owned property. It shall be unlawful to park any private or commercial vehicles at, in or around publicly owned properties within the town for a period of longer than three (3) hours and there shall be no overnight parking of vehicles on municipally owned property within the town. Publicly owned property shall include all the off street parking at gardens, parks, town commons, commercial district and within marked areas of parking lanes for commercial and recreational properties. (Ord. #118, Aug. 2003)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Violation of parking where a fee is required.
- 15-705. Impoundment of vehicles.
- 15-706. Disposal of abandoned motor vehicles.
- 15-707. Deposit of driver's license in lieu of bail.
- 15-708. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, 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. (1992 Code, § 9-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1992 Code, § 9-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. The offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court, and the fines

¹State law reference

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

shall be forty dollars (\$40.00) within ten (10) days and eighty dollars (\$80.00) thereafter.

15-704. Violation of parking where a fee is required. If the offense is due to failure to pay at a parking spot where a fee is required, the offender must follow the instructions on the citation in order to pay the fine.

15-705. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. (1992 Code, § 9-704)

15-706. Disposal of abandoned motor vehicles.¹ "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. (1992 Code, § 9-705)

15-707. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. The officer, or the court demanding bail, who receives any person chauffeur's or operator's license as herein provided, shall

¹Municipal code reference

Abandoned vehicles: title 13, chapter 3.

issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of *Tennessee Code Annotated*, §§ 55-7-401, *et seq.* (1992 Code, § 9-706)

15-708. Violations and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be ten dollars (\$10.00).

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the recorder a fine of ten dollars (\$10.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be twenty-five dollars (\$25.00).

(c) Disabled parking violations, or parking in a space designated for disabled drivers without legal authority, shall be punishable by a fine of up to fifty dollars (\$50.00).

CHAPTER 8

LICENSING REGISTRATION

SECTION

- 15-801. Definitions.
- 15-802. Policy.
- 15-803. Applicability of chapter.
- 15-804. License and license fee.
- 15-805. License decals.
- 15-806. New residents and newly acquired vehicles.
- 15-807. Use of fee revenue.
- 15-808. Violations and penalty.

15-801. Definitions. For the purpose of interpreting this chapter, the following definitions shall have the meaning given herein:

- (1) "Commission" is the mayor and board of commissioners of the Town of Lookout Mountain, Tennessee.
- (2) "Motor vehicle" means passenger automobiles, trucks, vans and any other motor driven vehicle.
- (3) "Resident" is any person who resides or has resided within the town limits for a period of time longer than thirty (30) days.
- (4) "Town" is the Town of Lookout Mountain, Tennessee. (Ord. #127, Aug. 2004)

15-802. Policy. It is declared to be in the public interest, welfare and safety of the citizens of the town that certain motor vehicles driven within the town be subject to licensing under the provisions of this chapter. (Ord. #127, Aug. 2004)

15-803. Applicability of chapter. The provisions of this chapter shall be applicable to any motor vehicle owned, leased, or used by a resident of the town and operated within the town. (Ord. #127, Aug. 2004)

15-804. License and license fee. (1) There is hereby levied an annual license fee of ten dollars (\$10.00) for each motor vehicle operated within the town by a resident.

(2) Each resident who operates a motor vehicle subject to the provisions of this chapter shall pay the license fee annually at the town hall to the town treasurer, or his duly authorized representative.

(3) The license fee shall be due and payable on or before the day set annually by the board of commissioners, and shall become delinquent on such day as set by the board of commissioners, at which time an additional five dollars (\$5.00) will be added to the license fee.

15-805. License decals. (1) Upon payment of the license fee, the town treasurer shall issue to the owner or operator of each motor vehicle two (2) decals bearing serial numbers. One (1) decal shall be displayed on the left of the left front bumper, and the other decal shall be displayed on the left rear bumper.

(2) No decal shall be transferable from one (1) owner or operator to another or from one (1) vehicle to another. When an owner or operator transfers a motor vehicle to another person, the decals shall be removed and destroyed. (Ord. #127, Aug. 2004)

15-806. New residents and newly acquired vehicles. (1) New residents of the town who become subject to this chapter between annual licensing dates shall pay the license fee and obtain decals within ten (10) days after becoming a resident.

(2) An owner or operator who acquires a motor vehicle subject to this chapter between annual licensing dates shall pay the license fee and obtain decals within ten (10) days after the motor vehicle is acquired.

(3) There shall be no proration of the license fee because of the issuance of the license decals between annual licensing dates. (Ord. #127, Aug. 2004)

15-807. Use of fee revenue. The revenue from the license fees shall be used in paying the cost of administration of this chapter and enforcement of its provisions. (Ord. #127, Aug. 2004)

15-808. Violations and penalty. Violation of this chapter is hereby declared a misdemeanor, and any violation shall be punishable on conviction by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each violation. (Ord. #127, Aug. 2004)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. STREET EXCAVATION AND RESTORATION OF PAVEMENT PROCEDURES.
3. STREET ADDRESS NUMBERS.
4. WALLS AND FENCES.
5. SIDEWALKS AND ABUTTING PROPERTY OWNERS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1992 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

feet (14') or over any sidewalk at a height of less than eight feet (8'). (1992 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1992 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1992 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the mayor and board of commissioners after a finding that no hazard will be created by such banner or sign. (1992 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1992 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1992 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1992 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to

¹Municipal code reference
Building code: title 12, chapter 1.

remove all accumulated snow and ice from the abutting sidewalk. (1992 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town clerk. (1992 Code, § 12-110)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1992 Code, § 12-111)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1992 Code, § 12-112)

CHAPTER 2

STREET EXCAVATION AND RESTORATION OF PAVEMENT PROCEDURES

SECTION

- 16-201. Short title.
- 16-202. Definitions.
- 16-203. Permit required.
- 16-204. Applications.
- 16-205. Application and excavation permit fee.
- 16-206. Manner of excavating - barricades and lights.
- 16-207. Bond required.
- 16-208. Manner of excavating streets.
- 16-209. Liability and responsibility for repairs.
- 16-210. Inspection.
- 16-211. Specification.
- 16-212. Insurance.
- 16-213. Supervision.
- 16-214. Violations and penalty.

16-201. Short title. This chapter shall be known and may be cited as street excavation and restoration of paving procedures ordinance. (Ord. #206, Nov. 2019)

16-202. Definitions. The following definitions shall be incorporated:

(1) "Building official." The person designated by the mayor or town marshal who shall serve as the supervisor for the inspection or in his or her absence, the subordinate assigned or delegated direct responsibility for the administration of this chapter.

(2) "Emergency." A sudden or unexpected occurrence or condition calling for immediate action. The repair of a broken or malfunctioning utility line or services shall be deemed an emergency if a repair is reasonably warranted under existing circumstances prior to the next working day.

(3) "Excavation." Any excavation or tunneling of any public street right-of-way including, but not limited to, excavation in, cutting of, or tunneling of any street, sidewalk or curb for purposes of constructing or maintaining pipes, lines, driveways, private streets, poles, guy wires, signs, or other utilities, private structures, or facilities.

(4) "Town inspector." A person employed or otherwise engaged by the town and acting under the authority of the mayor or town marshal to physically inspect any excavation for conformity with the permit and other provisions of this chapter.

(5) "Working day." Any day when the town hall office is open for the transaction of normal business. (Ord. #206, Nov. 2019)

16-203. Permit required. It shall be unlawful for any person to make any excavation in or to tunnel under any street, curb, alley, or public right-of-way in the Town of Lookout Mountain, Tennessee, without first having obtained a permit from the town marshal (chief of police) or his designees and complying with the provisions of this chapter. It shall be unlawful to violate or to vary from the terms of any such permit; provided, however, any person maintaining pipes, lines, driveways, or other facilities in or under the surface of any public right-of-way may proceed with an excavation without a permit when emergency circumstances demand the work to be done immediately, and provided further that the person shall apply for a permit on the next working day and shall otherwise and immediately thereafter comply with all other provisions of this chapter. (Ord. #206, Nov. 2019)

16-204. Applications. (1) Applications for such permits shall be made to the town marshal and shall state thereon the location/address of the intended excavation or tunnel, the size thereof, the purpose thereof, the name of the person doing the actual excavating, and the name of the person for whom the work is being done. The application form shall contain a contractual undertaking and guaranty on the part of the applicant and, the permittee, if the permittee will comply with all the terms and provisions of this chapter and all other conditions imposed by the town with respect to the permit, whether or not the same be expressed verbatim on the face of the permit. The application shall further contain a contractual undertaking and guaranty on the part of the applicant and permittee, if the applicant and permittee, if different from the applicant, does not comply with the terms, provisions and conditions set forth, the applicant and/or permittee shall be financially liable to the town for the cost of all repairs and/or corrections made by the town and/or by its subcontractors and for all damages incurred by the town occasioned by such failure to comply. Said application shall also provide that the applicant shall guarantee the integrity of the work performed for a period of twenty-four (24) months from the date upon which the refilled excavation is accepted by the town marshal or his designee.

(2) The applicant shall disclose any foreseeable lane or sidewalk closures or detours during excavation. As a condition of issuing a permit, all applicants must agree in writing as part of the application to comply with all ordinances and laws relating to the work to be done. The town marshal or his designee shall consider each application for a permit filed under this chapter, under all facts and circumstances shall grant or refuse the permit within five (5) working days and shall endorse his action on the application. The action of the town marshal in granting or refusing a permit shall be final, except as it may be subject to review at law. A permit may be refused for the following reasons:

- (a) The proposed excavation should be redesigned to mitigate a potential safety hazard;
- (b) The proposed excavation should be redesigned to mitigate damage within the right-of-way;
- (c) The proposed excavation cannot be safely made in the public right-of-way;
- (d) The proposed restoration plan does not meet the minimum standards for restoration;
- (e) The applicant has willfully failed to comply with conditions of prior permits issued to the applicant; provided that such disqualification shall be removed upon correction of any such defects;
- (f) For failure to satisfactorily comply with anyone or more of the terms, provisions or conditions of this chapter;
- (g) For other good cause in the discretion of the town marshal. Provided that as to an excavation done in emergency circumstances the application shall be completed on the next working day; and the town marshal or his designees shall review the actual work completed for conformity with the requirements hereof. (Ord. #206, Nov. 2019)

16-205. Application and excavation permit fee. Each application shall be accompanied by a fee, established initially, as follows:

- (1) Permit fee of two hundred fifty dollars (\$250.00) for transverse cuts in pavement, subject to the provisions of subsection (11), below.
- (2) For longitudinal cuts in pavement the permit fee of one dollar (\$1.00) per foot shall be charged (two hundred fifty dollar (\$250.00) minimum), subject to the provisions of subsection (11), below.
- (3) Permit fee of fifty dollars (\$50.00) for cuts in the sidewalk, subject to the provisions of subsection (11) below
- (4) Permit fee of one hundred dollars (\$100.00) for cuts in the curb and/or curb and gutter, subject to the provisions of subsection (11), below.
- (5) Street cut permit is not required for cuts outside the sidewalk and street pavement.
- (6) Written notification of intent to work in a town right-of-way must be received at least twenty-four (24) hours prior to beginning work, even if a permit is not required, except in emergencies. E-mail is considered a written notice.
- (7) Permits for relocation or installation of fire hydrants will be required when requested by the town, but no fee (including administrative fees) will be required.
- (8) Multiple cuts, each not exceeding twenty-five (25) square feet in area, when required in a single block or within a work zone distance of two hundred fifty feet (250') as part of a single project, are considered as one (1) cut. Permit and fee will be required for a single cut under these conditions. If the cut exceeds two hundred fifty feet (250'), or multiple cuts within a block or a work

zone greater than two hundred fifty feet (250'), or multiple cuts within a block or a work zone greater than two hundred fifty feet (250'), then the entire lane that is disturbed by construction shall be repaved from intersection to intersection.

(9) Neither permits or fees will be required when work in the right-of-way is conducted as part of a town street improvement project, including resurfacing, where the utility is required to move their facilities as a result of the town project nor shall fees be required for routine maintenance and repairs

by the Hamilton County Water and Wastewater Treatment Authority (WWTA), provided, however, that WWTA and its authorized and approved subcontractors shall nevertheless complete an application and otherwise be subject to all other provisions of this chapter. In addition, WWTA may utilize subcontractors so long as the permit is issued to WWTA and WWTA's running bond shall stand as surety for compliance with the requests of this chapter.

(10) Fees shall not be waived under any other conditions.

(11) When it is determined that non-emergency work in the town right-of-way has proceeded without the purchase of a permit, the contractor or utility shall immediately purchase a street cut permit, and the fee for the permit shall be double the normal fee; no further permits shall be issued to the contractor or utility until such time as the improper work is removed and replaced in accordance with this code and such person shall be subject to the penal provisions of this chapter and each day of such failure or violation shall constitute a separate offense.

(12) Where work in the town right-of-way is self-performed by one (1) of the following entities, or by one (1) of the entity's approved contractors, the fee for each permit shall be invoiced monthly. Invoicing may be provided for:

- (a) Electric Power Board of Chattanooga (EPB);
- (b) Tennessee-American Water Company (TAWC);
- (c) Chattanooga Gas Company;
- (d) AT&T;
- (e) Comcast Cable Company;
- (f) Hamilton County Water and Wastewater Treatment Authority (WWTA).

(13) The amounts of all fees hereinabove provided may be increased from time to time by resolution of a majority of the board of commissioners without the necessity of amending the chapter, and without prior notice to any person. (Ord. #206, Nov. 2019)

16-206. Manner of excavating - barricades and lights. (1) Any person making any excavation or tunnel shall do so according to the specifications and standards issued by the town official. In accordance with the then currently adopted version of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, sufficient and proper barricades,

lights and other traffic control devices shall be maintained to prevent accidents and injury to persons or property. If any sidewalk is blocked, a temporary sidewalk shall be provided which shall be safe for travel and convenient for users. No work shall be done which deviates from the approved plans and until a change of plans has been secured from the building official. All expenses of such safety measures and temporary sidewalk shall be borne by the applicant or owner.

(2) The town marshal shall provide each permittee at the time a permit is issued hereunder a copy of the permit which shall include the permit number and the expiration date. It shall be the duty of any permittee hereunder to keep the permit on site of the excavation work. It shall be unlawful for any person to produce any such permit at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit. Permits shall expire after one hundred eighty (180) days and all excavation work performed must be completed within sixty (60) days of commencing. (Ord. #206, Nov. 2019)

16-207. Bond required. When permits are required to excavate or in any way obstruct any street in the town, the town marshal shall require from such applicant, before granting a permit, a bond with good and sufficient, as may be determined from time to time by the town marshal, sureties acting with consent of the mayor, conditioned to secure the town against all loss, damage or injury of any kind which may result to the town by reason of such excavation or obstruction; provided, that public utilities and/or persons engaged in the business of contracting shall be allowed to give an annual bond, instead of a bond for each obstruction such annual bond in every instance to be renewed at least once every twelve (12) months. (Ord. #206, Nov. 2019)

16-208. Manner of excavating street. (1) In excavating any street, all material for paving or ballasting must be removed with the least possible injury or loss of the same and, together with the excavated materials from the trenches, must be placed where they will cause the least possible inconvenience to the public. All pavement, where trench excavations are to be made, shall be saw cut. Cutting the street with a jackhammer or a hoe-ram is not permitted.

(2) The permittee shall carry on the work authorized by the permit in such manner as to cause a minimum of interference with traffic. He shall provide adequate warning signs and devices to warn and guide traffic, and shall place the signs and warning devices in a position of maximum effectiveness. The latest editions of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, copies of which are on file in the public works department, and may be used as a guideline for proper positioning of signs and devices.

(3) Where difficult or potentially hazardous conditions exist, competent flagmen shall be provided to effect a safe and orderly movement of

traffic. Where insufficient traffic lanes exist because of street openings, adequate bridging shall be supplied by the permittee. When traffic congestion occurs in spite of all precaution, the permittee shall be responsible for providing a flagman. In the event the building official shall discover any hazardous excavation or unwarranted traffic congestion where flagmen have not been provided, he shall direct the permittee to immediately post flagmen. A failure to post flagmen following a directive shall be a violation of this chapter.

(4) On main thoroughfares and in congested districts, sufficient traffic lanes shall be kept open at all times to permit substantially normal traffic flow. Unless this can be accomplished, work shall be done only during the period between 9:00 A.M. and 4:00 P.M. or between 7:00 P.M. and 7:00 A.M., as the town marshal official may designate.

(5) For backfill in roadway areas, the contractor shall provide six inches (6") of graded aggregate base above the utility's main line. From top of graded aggregate base backfill to bottom of paving, the backfill material shall be flowable fill with a compressive strength of two hundred to two hundred fifty (200-250) psi in forty-eight (48) hours. Flowable fill shall be placed a minimum of forty-eight (48) hours prior to the placing of the asphalt or concrete topping. Where it is impractical to use flowable fill because of terrain, slope, width of trench, or other situations, the material for the backfill in the roadway areas may be approved for cement treated aggregate base at the sole discretion of the city building official. Each eight inch (8") layer of backfill shall be thoroughly compacted by means of a mechanical tamp. Other backfill materials may be acceptable, but prior approval for the substitution shall be determined by the city building official or his designee.

(6) Backfill for trenches within the sidewalk areas shall be compacted graded aggregate base instead of loose washed stone. Each eight inch (8") layer of graded aggregate base shall be thoroughly compacted by means of mechanical tamp.

(7) If a perpendicular cut reaches the centerline of the roadway, the asphalt must be replaced from curb to curb and a minimum of ten feet (10') on each side of the centerline of the excavation.

(8) **No cold fill/patch will be allowed for permanent repairs.**
(Ord. #206, Nov. 2019)

16-209. Liability and responsibility for repair. (1) Any person who shall properly make any excavation or other change to the street right-of-way, and shall have same inspected by the building official or his designee and shall be relieved from any liability for any defects due to inadequate workmanship or defective materials provided the excavation shall remain free from defects for twenty-four (24) months following installation.

(2) If a contractor, utility, or other entity makes five (5) or more excavations within one (1) block of a town right-of-way or within a work zone distance of two hundred fifty feet (250') within the town right-of-way, whichever

is shorter, causing disruption to any part of the pavement within two (2) years after said right-of-way has been resurfaced or constructed, said contractor, utility or other entity shall repave the entire street for the distance of the town block or two hundred fifty feet (250'), said distance being the distance utilized to require the repaving. Said repaving shall be done to the standards approved by the town building official and shall be done under the supervision and control and at the direction of the town. The contractor, utility, or other entity shall bear the entire cost of such repaving. In the event any such contractor, utility, or other entity fails to repave as required herein, then such contractor, utility or other entity shall be prohibited from acquiring any permits for additional excavations in any town right-of-way until such time as the repaving required by this section is completed and approved by the town inspector.

(3) The permit application and permit shall require, as a condition of its issuance, that the applicant and permittee, if different from the applicant, shall be responsible for all enforcement costs of the terms of the permit including attorney fees incurred by the Town of Lookout Mountain in enforcing the terms, provisions and requirements of such permit, and such application and permit forms, shall require the signature of the applicant and permittee acknowledging and agreeing to such. (Ord. #206, Nov. 2019)

16-210. Inspection. It shall be the responsibility of any person granted a permit to schedule an inspection of the permitted work by the town's inspector upon such conditions as may be specified in the permit. The utility or contractor making any changes to a town right-of-way, shall, at a minimum, have the following inspections performed by the town inspector.

(1) After the repairs or installation of the new conduit or piping and before the graded aggregate base fill over the pipe has been placed;

(2) During the placement of the flowable fill or other approved fill in the sole discretion of the town inspector; and

(3) Final completion.

(4) Should inspections be required after normal working hours or on weekends, the contractor or utility making the changes to the town right-of-way, shall reimburse the town for the inspector's time at a rate to be determined in accordance with the personnel policies in effect at the time the repairs are performed. When it is determined that improper work has been performed in the town right-of-way, the contractor or utility responsible for the work shall remove improper work and reinstall the work in accordance with the town standards. If a permit was not obtained, the contractor or utility shall purchase a permit and the fee shall be double the normal fee. No future permits will be issued to the violating contractor or utility until the improper work has been corrected. (Ord. #206, Nov. 2019)

16-211. Specification. Upon issuance of each permit, the building official or his designees shall specify minimum restoration standards applicable

to the permit. Provided that where the work involved is greater in scope than provided for by standard specifications as determined by the building official. The permittee shall be required to submit suitable plans of installation and street restoration for approval prior to issuance of a permit. (Ord. #206, Nov. 2019)

16-212. Insurance. Each person applying and as applicable each permittee if different from the applicant for a permit shall file a certificate of insurance (or provide other proof of insurance in form and substance to be approved by the town attorney) indicating that he is insured, or the applicant shall provide an indemnity agreement with security satisfactory to the town attorney, against claims of personal injury or property damage which may arise from or out of the performance of the work, whether such performance be by the applicant, a contractor or subcontractor, or anyone employed by him. Such insurance or indemnity agreement shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The minimum amount of the liability insurance for bodily injury shall not be in an amount less than three hundred thousand dollars (\$300,000.00) for each person and one million dollars (\$1,000,000.00) for each accident and for property damages in an amount not less than one hundred thousand dollars (\$100,000.00), unless other higher limits are established by the Tennessee Government Tort Liability Act, in which event such higher limits shall automatically be controlling and shall then and thereafter be here applicable as the minimum acceptable limit(s) of such insurance. (Ord. #206, Nov. 2019)

16-213. Supervision. The building official, or his designee, shall from time to time inspect all excavations and see to the enforcement of the provisions of this chapter. The permittee shall give notice to the building official, or his designee, before refilling any such excavation or tunnel and said work may not commence until the Inspector arrives at the site or otherwise gives permission to proceed. (Ord. #206, Nov. 2019)

16-214. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

CHAPTER 3

STREET ADDRESS NUMBERS

SECTION

16-301. Street address numbers required.

16-302. Violation and penalty.

16-301. Street address numbers required. It is a requirement that each residential and commercial structure be clearly identified by its street address number by the placing of clearly visible numbers on each side of the mail box serving the residential or commercial structure, or in the event of a lack of a mail box so serving a structure, by numbers upon other structures or upon the residence or commercial structure itself, placed in such fashion as to be clearly visible from the public street serving such residence or commercial structure. (1992 Code, § 12-301)

16-302. Violation and penalty. Failure to comply with the terms of this chapter is declared to be a misdemeanor punishable by fine of not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each violation. Each day of violation shall constitute a separate offense for purposes of imposition of such fine. (1992 Code, § 12-302)

CHAPTER 4

WALLS AND FENCES¹

SECTION

- 16-401. Walls or fences along a public roadway prohibited.
- 16-402. Construction, location and size regulated by zoning ordinance.
- 16-403. Variances.
- 16-404. Permit required.
- 16-405. Issuance of permit.
- 16-406. Planting along roadways.

16-401. Walls or fences along a public roadway prohibited. Construction of walls or fences along a public roadway within the Town of Lookout Mountain will not be permitted except as provided herein. (1992 Code, § 12-401)

16-402. Construction, location and size regulated by zoning ordinance. The construction, location and size of fences or walls shall be subject to the provisions of the town's general zoning ordinances as amended from time to time. No fences shall be built within the town's right-of-way or within any required lot line or set back without a variance from the zoning ordinance restriction being asked for and approved as provided in said ordinance. (1992 Code, § 12-402)

16-403. Variances. No variance shall be granted for a wall or fence in excess of three feet (3') high or when the size and proposed location shall create a hazard to the people traveling upon the public roadway, impair their ability to see oncoming traffic or create a dangerous condition for traffic entering or exiting the roadway from another roadway or private driveway.

No fence shall be constructed or located nor shall any variance be granted for a location within the required front yard setback or within forty-eight inches (48") of the finished surface of the public roadway, nor shall any "chain link", wire or similar materials be used in such fences. Fences along front yards shall be made of masonry, wood or wrought iron materials. (1992 Code, § 12-403, as amended by Ord. #223, Sept. 2023)

16-404. Permit required. Any owner or occupant of property within the town desiring to construct a fence or wall along the public roadway shall

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

apply to the board of commissioners for a permit authorizing the construction. Said application shall contain details and specifications as to location, height and materials to be used in the construction. (1992 Code, § 12-404)

16-405. Issuance of permit. Upon approval of the application, a permit shall be issued in accord with the procedures for issuance of building permits within the Town of Lookout Mountain. (1992 Code, § 12-405)

16-406. Planting along roadways. Likewise any planting along any roadway within the town shall be kept trimmed back and maintained so as to allow clear view of all road signs and traffic upon or entering the roadway. (1992 Code, § 12-406)

CHAPTER 5

SIDEWALKS AND ABUTTING PROPERTY OWNERS

SECTION

- 16-501. Property owner to keep sidewalks clean.
- 16-502. Property owner to maintain and repair sidewalks.
- 16-503. Permit required.
- 16-504. Repair of sidewalks at owner's expense.
- 16-505. Non-resident property owners.
- 16-506. Abutting property owners liability.
- 16-507. Completion of work.
- 16-508. Violations and penalty.

16-501. Property owner to keep sidewalks clean. Every owner or occupant of property in the town, in front of or along which there is a sidewalk, shall keep such sidewalk clean and unobstructed. Each such owner or occupant shall cause the removal at once of all accumulations of mud, filth, snow and ice and every other substance or thing which may constitute an obstruction or impediment to pedestrians, and everything in the nature of a nuisance. (1992 Code, § 12-501)

16-502. Property owner to maintain and repair sidewalks. When any sidewalk becomes out of repair or in any manner defective, whether in the bed or pavement or curbing thereof, or if such sidewalk does not conform to the provisions of the specifications of the town therefor, the owner, occupant, or agent shall cause such sidewalk to be reconstructed or put in good repair according to such specifications. (1992 Code, § 12-502)

16-503. Permit required. Repairs to existing sidewalks shall be such as may be prescribed and approved by the board of commissioners. The owner, occupant or agent in charge of the property where such work is to be done shall apply to the departments of streets and sanitation for specifications and instructions setting forth the manner in which the work shall be performed and a permit authorizing such work, and in doing such work shall conform to said specifications and instructions. (1992 Code, § 12-503)

16-504. Repair of sidewalks at owner's expense. If the owner, occupant or agent fails or refuses to construct, reconstruct or repair any required sidewalk or curbing, the commissioner of streets and sanitation may cause the same to be done at the expense of owner or he may direct issuance by the department of streets and sanitation of a written notice by registered mail with return receipt or personal delivery to the owner or to the occupant or agent,

if the owner is a non-resident, unknown or cannot be located, requiring that the necessary work be done. (1992 Code, § 12-504)

16-505. Non-resident property owners. If the owner is a nonresident, unknown or cannot be located and there is no known agent therefor and the property is not occupied, the notice shall be posted for at least five days on such lot or property. (1992 Code, § 12-505)

16-506. Abutting property owners liability. In all instances of injury to persons resulting from the negligently unsafe and defective conditions of any such sidewalk, or the repair of which the abutting property owner, occupant or his agent, has been notified to effectuate in the manner hereinbefore provided more than five days before the happening of such entry, the abutting property owner shall be liable in damages.

If any judgment is obtained against the town as a result of the negligently defective condition of any such sidewalk, or any personal injuries received by any person more than five (5) days after the service of a notice as hereinbefore provided, the town attorney shall institute proper legal proceedings against such property owner for recover over of the amount of any such judgment. (1992 Code, § 12-508)

16-507. Completion of work. Failure or refusal to complete such necessary work according to said specifications and instructions, after it has once been commenced, shall be unlawful. (1992 Code, § 12-507)

16-508. Violations and penalty. Failure or refusal by the owner, or the occupant or agent, if the owner cannot be notified, to commence such necessary work within ten (10) days of the receipt or posting of such notice shall be unlawful, and each day thereafter shall constitute a separate violation. (1992 Code, § 12-506)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-110. Permits for tree trimmers, etc.
- 17-111. Violations and penalty.

17-101. Refuse defined. "Refuse" shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1992 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1992 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which handles

¹Municipal code reference

Property maintenance regulations: title 13.

mechanically. Furthermore, except for containers which handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. (1992 Code, § 8-203)

17-104. Location of containers. Streets are used by the town refuse collectors, therefore, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1992 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1992 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the streets and sanitation superintendent. Collections shall be made regularly in accordance with an announced schedule. (1992 Code, § 8-206)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1992 Code, § 8-207)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the mayor and board of commissioners is expressly prohibited. (1992 Code, § 8-208)

17-109. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the mayor and board of commissioners by ordinance or resolution.¹ (1992 Code, § 8-209)

¹Administrative ordinances and resolutions are of record in the office of the recorder.

17-110. Permits for tree trimmers, etc. Persons desiring to perform the services of tree trimming, landscaping, brush removal or similar activities within the town shall be required to apply for and obtain a permit from the Town of Lookout Mountain to perform the services of tree trimming, landscaping, brush removal or similar activities within the town. The application shall be on a form prescribed by the Town of Lookout Mountain and shall be accompanied by such fee as the town shall require to cover the cost of administration and enforcement of the requirements of this section. The permit must be renewed annually on January 1 of each year. Failure to obtain the permit shall subject the party to being required to stop work upon notice from the town marshal and other penalties as prescribed in this section. The permit fee is set at twenty five dollars (\$25.00). Further, the permit may be revoked and no new permit issued until full compliance or restitution is accomplished and the landowner and contractor shall be cited to the town court for violation of this section. (Ord. #60, Dec. 1996)

17-111. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 18**WATER AND SEWERS**¹**CHAPTER**

1. WATER.
2. WASTEWATER TREATMENT.

CHAPTER 1**WATER****SECTION**

18-101. To be furnished under franchise.

18-101. To be furnished under franchise.² Water shall be furnished to the Town of Lookout Mountain and its inhabitants under franchise granted to the Tennessee American Water Company by the Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee. The rights, powers, duties, and obligations of the Town of Lookout Mountain and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned. (1992 Code, § 13-101, modified)

¹Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

²Complete details relating to the water franchise agreement are available in the office of the town clerk.

CHAPTER 2

WASTEWATER TREATMENT

SECTION

18-201. To be furnished by the Hamilton County Water and Wastewater Treatment Authority.

18-201. To be furnished by the Hamilton County Water and Wastewater Treatment Authority. The Town of Lookout Mountain on July 1, 2006 entered into an agreement with the Hamilton County Water and Wastewater Treatment Authority (WWTA) transferring ownership, operations, maintenance and funding of the sewer system serving Lookout Mountain. Property owners, from that date forward, pay sewer system service charges based upon water usage through the Tennessee American Water Company to the WWTA as part of their water bills.¹

¹Complete details relating to the agreement are available in the office of the town clerk.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. To be furnished by Chattanooga Electric Power Board.

19-101. To be furnished by Chattanooga Electric Power Board.

Electricity shall be provided to the Town of Lookout Mountain and its inhabitants by the Chattanooga Electric Power Board. The rights, powers, duties, and obligations of the Town of Lookout Mountain and its inhabitants, are stated in the town agreement between the parties.² (1992 Code, § 13-201)

¹Municipal code reference
Electrical code: title 12, chapter 3.

²The agreements are on record in the office of the town clerk.

CHAPTER 2**GAS****SECTION**

19-201. To be furnished under franchise.

19-201. To be furnished under franchise.¹ Gas shall be furnished to the Town of Lookout Mountain and its inhabitants under franchise granted to Chattanooga Gas Company by the Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee. The rights, powers, duties, and obligation of the Town of Lookout Mountain and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned. (1992 Code, § 13-301)

¹Complete details relating to the gas franchise agreement are available in the office of the town clerk.

TITLE 20

MISCELLANEOUS

CHAPTER

1. AIR POLLUTION CONTROL.
2. AIRCRAFT LANDING SITES.

CHAPTER 1

AIR POLLUTION CONTROL¹

SECTION

- 20-101. Adoption of the Air Pollution Control Code of the City of Chattanooga and Hamilton County.
- 20-102. Enforcement.
- 20-103. Violations and penalty.

20-101. Adoption of the Air Pollution Control Code of the City of Chattanooga and Hamilton County. There is hereby adopted by reference by the Town of Lookout Mountain, Tennessee, for the purpose of establishing basic rules, provisions, and regulations governing air pollution and air contaminants, that certain Air Pollution Control Code for the City of Chattanooga and Hamilton County, adopted and amended, by the City Commission of the City of Chattanooga and the Quarterly County Court of Hamilton County, Tennessee and the whole thereof, section by section, except the penalty clause set out therein. (1992 Code, § 8-501)

20-102. Enforcement. This chapter shall be enforced by Chattanooga-Hamilton County Air Pollution Control Board personnel according to the provisions of the Air Pollution Control Code for the City of Chattanooga and Hamilton County. (1992 Code, § 8-502)

20-103. Violations and penalty. Violations of this chapter shall be punished according to the general penalty provisions set out in this municipal code of ordinances. (1992 Code, § 8-503)

¹The complete text of the Air Pollution Control Code, and all amending ordinances, are available in the office of the town clerk.

CHAPTER 2

AIRCRAFT LANDING SITES

SECTION

20-201. Location of landing sites for aircraft restricted.

20-201. Location of landing sites for aircraft restricted. 1. No aircraft shall land within the town limits of the Town of Lookout Mountain, Tennessee without first having notified the town at least forty-eight (48) hours prior to the landing of the intention to do so and the purpose for doing so.

2. The foregoing provision shall not apply to medical emergency helicopters serving an emergency need and summoned by local safety enforcement officers.

3. Anyone wishing to land an aircraft within the town, having first notified the town as specified above, shall be permitted to land only at the town commons and no other place.

4. Violation of the provisions of this chapter shall constitute a nuisance and shall be punished as allowed by the law of the State of Tennessee. (Ord. #129, Nov. 2004)

ORDINANCE NO **229**

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF LOOKOUT MOUNTAIN, TENNESSEE.

WHEREAS some of the ordinances of the Town of Lookout Mountain are obsolete, and

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

WHEREAS the Mayor and Board of Commissioners of the Town of Lookout Mountain, 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 "Lookout Mountain Municipal Code," now, therefore:

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE TOWN OF LOOKOUT MOUNTAIN, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the Town of Lookout Mountain of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Lookout Mountain Municipal Code," hereinafter referred to as the "Municipal Code."

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

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

any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

¹State law reference

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

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

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

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

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading 10/10, 2023.

Passed 2nd reading 11/14, 2023.



Mayor



Recorder