

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

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**CHAPTER 1**

**IN GENERAL**

**SECTION**

- 12-101. Definitions of certain terms used in technical codes adopted by reference.
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- 12-104. Development committee.
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**12-101. Definitions of certain terms used in technical codes adopted by reference.** The following definitions shall apply in the interpretation and enforcement of the various codes adopted by reference in this title.

(1) "Municipality." Wherever the word "municipality" is used, it shall be held to mean this city.

(2) "Board of appeals." Wherever the words "board of appeals" are used, they shall mean the board provided for in § 112 of the International

Building Code, being particularly the 2006 edition, as adopted in chapter 2 of this title. The members thereof shall be appointed by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, and shall be residents of the City of Tullahoma.

(3) "Department of law, corporation counsel." Wherever the words "department of law" or "corporation counsel" are used, they shall mean the city attorney.

(4) "Chief administrator, chairman of the board of appeals." Wherever the words "chief administrator" or "chairman of the board of appeals" are used, they shall mean the mayor of the city.

(5) "Building official, chief inspector, etc." Wherever the words "building official," "chief inspector" or other official are used, they shall mean that designated official in the city who has duties corresponding to those of the named official in such code and shall be deemed to be the responsible official insofar as enforcing the provisions of such code are concerned. (1988 Code, § 4-101, as amended by Ord. #1333, June 2006, and Ord. #1364, Feb. 2008)

**12-102. Permit fees.** The charges for building permits, house moving permits, demolition permits, electrical permits, gas service permits and inspections, and plumbing opening permits as set forth in title 20, chapter 10 will be charged by the city, which fees shall be in lieu of any permit fees set out in technical codes on such subjects, adopted by reference in this title.

Where work for which a permit is required by this title is started or proceeded with prior to obtaining said permit, the fees here unspecified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this chapter in the execution of the work, nor from any other penalties prescribed in this code. (1988 Code, § 4-102)

**12-103. Adoption of amendments to the building code, electrical code, gas code, etc.** As revisions to any of the codes adopted in this title or applying to the City of Tullahoma, Tennessee, under the general law of the State of Tennessee, are enacted, said revisions are hereby adopted as published, from time to time, and incorporated herein by reference, as though same were fully set forth herein. (1988 Code, § 4-103)

**12-104. Development committee.** (1) Purpose. The development committee is established to provide a pre-application technical review of proposed plats and plans for code and regulation compliance.

(2) Organization. The development committee is composed of the city building inspector, the director of public works, the fire inspector, and two (2) representatives from the Tullahoma Utilities Board representing respectively the electric system and water and sewer system. The director of planning and codes shall act as chairman of the development committee. The committee shall meet regularly on a day and place, as established by the committee and public

notice. In the absence of the director of planning and codes, the planning director or city administrator may designate a person to chair the committee.

(3) Function. The development committee shall have the function to provide technical assistance to the planning commission in the review of plats and plans prior to their submission to the planning commission.

(4) Procedures. The planning commission may adopt review procedures and requirements for the development committee. (1988 Code, § 4-104, modified, as amended by Ord. #1333, June 2006, and replaced by Ord. #1350, May 2007)

**12-105. Certificate of occupancy requirements**. No new building shall be occupied or given a permanent utility connection e.g., water, sewer, electrical, gas, until after the building official shall have issued a certificate of occupancy as related in the zoning ordinance, and the 2006 International Building Code. (1988 Code, § 4-105, modified, as amended by Ord. #1333, June 2006, and Ord. #1364, Feb. 2008)

**12-106. Flood damage prevention**. There is hereby adopted by the City of Tullahoma, Tennessee, those provisions of the National Flood Insurance Program as are fully set forth in Section 44 CFR 60.3 (c), as now enacted and as amended hereafter. (1988 Code, § 4-106)

## CHAPTER 2

### BUILDING CODE<sup>1</sup>

#### SECTION

12-201. Code adopted.

12-202. [Deleted.]

12-203. Amendments to ICC International Building Code.

**12-201. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every building or structure or any appurtenances connected or attached to such buildings or structures, that certain code known as the International Building Code,<sup>2</sup> published by the International, Code Council, 2009 edition, and all appendices thereto, with subsequent revisions thereof, save and except such portions as are herein deleted, modified, or amended, or are in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provision thereof shall be controlling in the construction of all buildings and other structures covered thereby, contained within the city. (Ord. #1170, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, and Ord. #1458, April 2016)

**12-202. [Deleted.]** (Ord. #1170, Oct. 1996, as amended by Ord. #1333, June 2006, and deleted by Ord. #1364, Feb. 2008)

**12-203. Amendments to ICC International Building Code.** That §§ 103.1 and 103.2 of the International Building Code are stricken and new §§ 103.1 and 103.2 be created as follows:

Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

enforcement of the adopted ICC Building Code shall be known as Building Inspectors.

Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector." (as added by Ord. #1458, April 2016)

### CHAPTER 3

#### ELECTRICAL CODE<sup>1</sup>

##### SECTION

- 12-301. National electrical code adopted.
- 12-302. State regulations adopted.
- 12-303. Penalty for violation of code or regulations.
- 12-304. Inspections; fees.
- 12-305. Permit--required; contents; fee.
- 12-306. Failure to obtain; service, etc., to be discontinued.
- 12-307. Discontinuance of services for failure to comply with chapter.
- 12-308. Compliance with privilege tax and licensing laws required.

**12-301. National electrical code adopted.** All installations of wiring, equipment and devices for the transmission, control, or use of electric energy at a potential of greater than thirty (30) volts, within the city, and in all buildings and premises, served or to be served by the Tullahoma Power System, a subsidiary of the city, shall conform to the 2006 edition of the National Electrical Code<sup>2</sup> as recommended by the National Fire Protection Association and approved by the American Standards Association, except the provisions thereof modified, amended or deleted by, or in conflict with, this code of ordinances, a copy of which is on file in the city recorder's office and three (3) copies at the office of the Tullahoma Power System, which code is hereby adopted and incorporated as fully as if set out at length herein. (1988 Code, § 4-301, as amended by Ord. #1364, Feb. 2008)

**12-302. State regulations adopted.** All installations of wiring, equipment and devices for the transmission, control, or use of electric energy at a potential of greater than thirty (30) volts, within the city, and in all buildings and premises, served or to be served by the Tullahoma Power System, a subsidiary of the city, shall conform to the current edition of the "Regulations Relating to Electrical Installations in the State of Tennessee, Regulation No. 15, 1965," as issued by the Division of Fire Prevention, Department of Insurance of the State, a copy of which is on file in the city recorder's office and three (3)

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<sup>1</sup>Municipal code reference  
Electricity and gas: title 19.  
Fire protection: title 7.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, 1 Batterymarch park, Quincy, Massachusetts 02269-9101.

copies at the office of the Tullahoma Power System, and which such further rules and regulations as may be prescribed hereafter by the board of mayor and aldermen or the board of public regulations, which regulations are hereby adopted and incorporated as fully as if set out at length herein. (1988 Code, § 4-302, as amended by Ord. #1364, Feb. 2008)

**12-303. Penalty for violation of code or regulations.** Any person who shall violate any provision of the electrical code or the regulations herein adopted, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any building or structure or appliance, fixture, equipment or installation therein or appurtenant thereto in violation of a detailed statement or drawing submitted and approved thereunder, shall be punished as provided in § 1-107 of this code of ordinances. Each such person shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of any of the provisions of this code is committed or continued. (1988 Code, § 4-303)

**12-304. Inspections; fees.** (1) The city hereby elects to have all such electrical installations as set forth in this chapter, inspected by inspectors or deputy inspectors appointed by the state or the state fire marshal. Such inspectors are hereby authorized to charge for and receive a fee for each such inspection in accordance with Tennessee Code Annotated, § 68-102-143.

(2) Where electrical inspections are made by inspectors provided by the state, as provided herein, no other electrical inspection fee or charge for electrical inspection will be made by the city. (1988 Code, § 4-304)

**12-305. Permit--required; contents; fee.** No installations of electrical wiring, equipment or devices, major repair, major rewiring or major additions thereto, other than portable plug-in type equipment rated at one thousand seven hundred (1700) watts or less shall be made on any premises within or without the corporate city, which premises are served or to be served by the Tullahoma Power System, unless and until a written permit therefor is obtained from the city recorder. Said permit shall set forth the name of the owner of the property, the name of the person proposing to do the work, the location where said work is to be done, and the character of the proposed work. The fee for said permit shall be as prescribed in § 12-102 which shall be collected by the recorder before said permit shall be issued. (1988 Code, § 4-305)

**12-306. Failure to obtain; service, etc., to be discontinued.** No metering device shall be issued and no electric service connection shall be made by the Tullahoma Power System unless and until said permit as set forth in § 12-304 is paid for and obtained from the city recorder. The manager of the Tullahoma Power System or his authorized representative is hereby authorized to discontinue any existing electric service connection inside or outside the

corporate limits of the city, upon the failure to obtain said permit. (1988 Code, § 4-306)

**12-307. Discontinuance of services for failure to comply with chapter.** The Tullahoma Power System is hereby authorized to refuse to connect or to discontinue electric service to any premises for failure to comply with this chapter, or upon the certification by the electrical inspector that said installation does not conform to the herein mentioned code and regulations, or for failure to pay the inspection fees as set forth in the Tennessee Code Annotated. (1988 Code, § 4-307)

**12-308. Compliance with privilege tax and licensing laws required.** It shall be unlawful for any person to make or contract to make any electrical installation as set forth in this chapter in any building or premises served or to be served by the Tullahoma Power System without first complying with all privilege tax or license laws, if any, and/or in the county wherein such work is to be done. (1988 Code, § 4-308)



**CHAPTER 4**

**GAS CODE<sup>1</sup>**

**SECTION**

12-401. Code adopted.

12-402. [Deleted.]

12-403. Amendments to ICC International Fuel Gas Code.

**12-401. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations for the installation of natural gas appliances, gas vents and gas pipes, and demolition, or any appurtenances connected thereto, that certain gas code known as the International Fuel Gas Code,<sup>2</sup> published by the International Code Council, 2009 edition with revisions thereof hereafter enacted thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling as to any connection made to the gas system owned by the Elk River Public Utilities District, Tullahoma, Tennessee, both inside and outside of the corporate limits on either distribution or transmission mains. (Ord. #1168, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, and Ord. #1458, April 2016)

**12-402. [Deleted.]** (Ord. #1168, Oct. 1996, as deleted by Ord. #1333, June 2006)

**12-403. Amendments to ICC International Fuel Gas Code.** That §§ 103.1 and 103.2 of the International Fuel Gas Code are stricken and new §§ 103.1 and 103.2 be created as follows:

Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Fuel Gas Code shall be known as Building Inspectors.

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<sup>1</sup>Municipal Code references

Electricity and gas: title 19.

Streets and sidewalks: title 16.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector." (as added by Ord. #1458, April 2016)

**CHAPTER 5**

**HOUSING CODE**

**SECTION**

12-501. Code adopted.

12-502. [Deleted.]

12-503. Amendments to ICC International Performance Code for Buildings and Facilities (housing code).

**12-501. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations for the repair, equipment, use and occupancy for dwelling purposes, of every building or structure or any appurtenances connected or attached to such buildings or structures, that certain housing code known as the International Performance Code for Buildings and Facilities, 2009 edition<sup>1</sup> thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the city. (Ord. #1167, 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, and Ord. #1458, April 2016)

**12-502. [Deleted.]** (1988 Code, § 4-502, as deleted by Ord. #1364, Feb. 2008)

**12-503. Amendments to ICC International Performance Code for Buildings and Facilities (housing code).** That when the title "Code Official" is used in any adopted ICC code it shall mean "building inspector." (as added by Ord. #1458, April 2016)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

## CHAPTER 6

### MOVING BUILDINGS

#### SECTION

12-601. Definition.

12-602. Permit--required.

12-603. Application; form; contents; accompanying papers; fee.

12-604. Bond; insurance.

12-605. Deposit for expense to city required.

12-606. Duties of superintendent of public works.

12-607. Duties of person holding permit.

12-608. Moving.

12-609. Enforcement.

**12-601. Definition.** For the purposes of this chapter the term "building" is defined as a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. A structure or object, the dimensions of which are, or exceed, the following, when loaded for moving, shall be deemed a "building" and subject to the provisions of this chapter: height, thirteen (13) feet; width, ten (10) feet; length, sixty (60) feet; weight, as per Tennessee Code Annotated, § 55-11-203. (1988 Code, § 4-601)

**12-602. Permit--required.** No person shall move any building or object, the dimensions of which are as specified in § 12-601, along or across any highway, street or alley in the city without first obtaining a permit from the planning and codes director. (1988 Code, § 4-602, as amended by Ord. #1364, Feb. 2008)

**12-603. Application; form; contents; accompanying papers; fee.**

(1) A person seeking issuance of a permit under this chapter shall file an application for such permit with the superintendent of public works. The application shall be made in writing, upon forms provided by the planning and codes director, and shall be filed in the office of the planning and codes director.

(2) The application shall set forth:

(a) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior or description of the object proposed to be moved.

(b) A legal description of the lots from which the building is to be moved, giving the lot, block and tract number, if located in the city.

(c) A legal description of the lot to which it is proposed such building be removed, giving lot, block and tract number, if located in the city.

(d) The portion of the lot to be occupied by the building when moved, if in the city.

(e) The highways, streets and alleys over, along or across which the building is proposed to be moved.

(f) Proposed moving date and hours.

(g) Any additional information which the superintendent of public works shall find necessary to a fair determination of whether a permit should issue.

(3) The following papers shall accompany the application for a permit under this chapter:

(a) Tax certificate. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charges against the same are paid in full.

(b) Certificate of ownership or entitlement. The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence, that he is entitled to move the building.

(4) The application shall be accompanied by the permit fee as specified in § 12-102. (1988 Code, § 4-603, as amended by Ord. #1364, Feb. 2008)

**12-604. Bond; insurance.** An application under this chapter as an indemnity for any damage which the city may sustain by reason of damage or injury to any highway, street, alley, sidewalk, fire hydrant or other property of the city, which may be caused by or be incidental to the removal of any building over, along or across any street, etc., in the city and to indemnify the city against any claims of damages to persons or private property and to satisfy any claims by private individuals arising out of, caused by, or incidental to the moving of any building over, along or across any street, etc., in the city, shall be accompanied by one of the following items:

(1) Bond. Any person filing an application under this chapter shall file with the superintendent of public works a bond, approved as to form by the city attorney, executed by a bonding or surety company authorized to do business in the state, in the amount of fifty thousand dollars (\$50,000) conditioned upon the assurance that this chapter and other applicable ordinances and laws will be complied with. Such bond shall run to the city for the use and benefit of any person intended to be protected thereby and shall be conditioned on the payment of any damage to person or to public or private property and the payment for any damages or losses resulting from any malfeasance, misfeasance, or nonfeasance or negligence in connection with any of the activities or conditions upon which the permit applied for is granted.

(2) Insurance policy. Any persons filing an application under this chapter shall file with the superintendent of public works a public liability and property damage insurance policy in the amount of not less than twenty-five thousand dollars (\$25,000.00) for one person and fifty thousand dollars (\$50,000.00) for any one accident, and ten thousand dollars (\$10,000.00) for property damage, issued by an insurance company authorized to do business in the state. (1988 Code, § 4-604)

**12-605. Deposit for expense to city required.** Upon receipt of an application under this chapter, it shall be the duty of the owner to procure from the department of public works, the electric, water, and sewer departments, the telephone company, the police department or any other utility or agency involved, an estimate of the expense that will be incurred in removing and replacing any electric wires, street lamps or poles or lines or any other property of any of said bodies, the removal and replacement of which will be required by reason of the moving of the building through the city, together with the cost of materials necessary to be used in making such removals and replacements. Prior to issuance of the permit the planning and codes director shall require of the applicant a deposit of a sum of money in cash equal to twice the amount of the estimated expense. (1988 Code, § 4-605, as amended by Ord. #1364, Feb. 2008)

**12-606. Duties of superintendent of public works.** (1) Inspection. The planning and codes director shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit as provided for in this chapter are met.

(2) Standards for issuance. The planning and codes director shall refuse to issue a permit under the provisions of this chapter if he finds:

(a) That any application requirement or any fee or deposit requirement has not been complied with;

(b) That the building is too large to move without endangering persons or property in the city;

(c) That the building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the city;

(d) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the city;

(e) That the applicant's equipment is unsafe and that persons and property would be endangered by its use;

(f) That zoning or other ordinances would be violated by the building in its new location;

(g) That for any other reason persons or property in the city would be endangered by the moving of the building.

(3) Deposit of fees and securities. The planning and codes director shall deposit all fees and securities with the city recorder.

(4) Return upon non-issuance. Upon his refusal to issue a permit the superintendent of public works shall return to the applicant all deposits and instruments of security. Permit fees filed with the application shall not be returned.

(5) Return upon allowance for expense. After the building has been removed or moved the planning and codes director shall furnish the city recorder with a written statement of all expenses incurred in removing and replacing all property belonging to the city, and of all material used in the making of the removal or replacement together with a statement of all damage caused to or inflicted upon property belonging to the city. The city recorder shall authorize the planning and codes director to return to the applicant all deposits after the city recorder deducts the sum sufficient to pay for all the costs and expenses and for all damage done to property of the city by reason of the removal of the building. Permit fees deposited with the application shall not be returned.

(6) Designated streets for removal or moving. The planning and codes director shall designate the streets over which the building may be moved. The planning and codes director shall have the route approved by the chief of police and the manager of the electric, water and sewer departments. In making their determination, such should be based on maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets. (1988 Code, § 4-606, as amended by Ord. #1364, Feb. 2008)

**12-607. Duties of person holding permit.** Every permittee under this chapter shall:

(1) File his application at least forty-eight (48) hours in advance of the time requested for the moving of the building, Saturdays and Sundays excluded in the calculation of time.

(2) Notify the planning and codes director in writing of a desired change in moving date and hours as proposed in the application.

(3) Notify the planning and codes director in writing of all damage done to property belonging to the city within twenty-four (24) hours after the damage has occurred.

(4) Comply with the building chapter of this code, the zoning ordinance, and all other applicable ordinances and laws upon relocating the building or object in the city.

(5) Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition. (1988 Code, § 4-607, as amended by Ord. #1364, Feb. 2008)

**12-608. Moving.** Under this chapter no building or object can be moved unless:

- (1) It is moved on a day other than Saturday and Sunday.
- (2) It is moved between sunup and sundown.
- (3) It can be moved to its destination or outside of the city during the time aforesaid; for no building or object can be left on any right-of-way, street, alley, or highway within the city over night.
- (4) All buildings being moved shall comply with Tennessee Code Annotated, title 13, chapter 3, sections 2 through 4. (1988 Code, § 4-608, as amended by Ord. #1364, Feb. 2008)

**12-609. Enforcement.** (1) In the event permittee fails to comply with the requirements of this chapter, the city may proceed as necessary in accordance with law to ensure the premises are restored to a sanitary and safe condition.

(2) The permittee shall be liable for any expenses, damages or costs in excess of deposited amounts or securities and the city attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excess amounts or damages. (1988 Code, § 4-609, as replaced by Ord. #1364, Feb. 2008)



**CHAPTER 7**

**PLUMBING CODE**<sup>1</sup>

**SECTION**

12-701. Code adopted.

12-702. [Deleted.]

12-703. Amendments to ICC International Plumbing Code.

**12-701. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, repair, equipment, location, maintenance, and removal of plumbing equipment, installation, fixture and appliance that certain plumbing code known as the Plumbing Code,<sup>2</sup> published by the International Code Council, 2009 edition and subsequent revisions thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the city, and outside of the city as to plumbing connected or to be connected to the city sewer or water system. (Ord. #1167, Oct. 1996, modified, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, and Ord. #1458, April 2016)

**12-702. [Deleted.]** (Ord. #1167, Oct. 1996, as deleted by Ord. #1333, June 2006)

**12-703. Amendments to ICC International Plumbing Code.** That §§ 103.1 and 103.2 of the International Plumbing Code are stricken and new §§ 103.1 and 103.2 be created as follows:

Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Plumbing Code shall be known as Building Inspectors.

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<sup>1</sup>Municipal code references

Cross-connections: title 18.

Street excavations: title 16.

Utilities: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC code it shall mean "building inspector." (as added by Ord. #1458, April 2016)

## CHAPTER 8

### MECHANICAL CODE

#### SECTION

12-801. Code adopted.

12-802. [Deleted.]

12-803. Amendments to ICC International Mechanical Code.

**12-801. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations for the installation of natural gas appliances, gas vents and gas pipes, and demolition, or any appurtenances connected thereto, that certain gas code known as the International Mechanical Code,<sup>1</sup> published by the International Code Council, 2009 edition, with revisions thereof hereafter enacted thereof, save and except such portions as are hereinafter deleted, modified, or amended, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein. (Ord. #1171, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, and Ord. #1458, April 2016)

**12-802. [Deleted.]** (Ord. #1167, Oct. 1996, as deleted by Ord. #1333, June 2006)

**12-803. Amendments to ICC International Mechanical Code.** That §§ 103.1 and 103.2 of the International Mechanical Code are stricken and new §§ 103.1 and 103.2 be created as follows:

Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Mechanical Code shall be known as Building Inspectors.

Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC it shall mean "building inspector." (as added by Ord. #1458, April 2016)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

## CHAPTER 9

### RESIDENTIAL CODE

#### SECTION

12-901. Code adopted.

12-902. Amendments to ICC International Residential Code.

**12-901. Code adopted.** There is hereby adopted the 2009 International Residential Code with revisions thereof deleted, modified, or amended as further set forth in § 12-902, or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set forth at length herein, and the provisions thereof shall be controlling in relationship to all matters relative to one- and two-family dwellings, insofar as they apply. (Ord. #1162, Oct. 1996, as amended by Ord. #1333, June 2006, and Ord. #1364, Feb. 2008, and replaced by Ord. #1458, April 2016)

**12-902. Amendments to ICC International Residential Code.** The ICC residential code for one and two family dwellings is amended as follows:

(1) That §§ R103.1 and R103.2 of the International Residential Code are stricken and new §§ R103.1 and R103.2 be created as follows:

Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Residential Code shall be known as Building Inspectors.

Section 103 .2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC it shall mean "building inspector."

(2) That Appendix "F", titled 'Sprinkling' is deleted, which however may be constructed and installed at the discretion of the builder. (as added by Ord. #1458, April 2016)

## CHAPTER 10

### INTERNATIONAL PROPERTY MAINTENANCE CODE

#### SECTION

12-1001. Code adopted.

12-1002. Amendments to ICC International Property Maintenance Code.

**12-1001. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations relative to amusement devices the International Property Maintenance Code,<sup>1</sup> both the current edition thereof and any amendments thereto, now in effect or hereafter enacted, said code having been copyrighted by the International Code Council, 2009 edition, all of the provisions thereof being incorporated herein by reference as though fully set forth herein, as amended from time to time. (1988 Code, § 4-1001, as replaced by Ord. #1333, June 2006, and amended by Ord. #1364, Feb. 2008, and Ord. #1458, April 2016)

12-1002. Amendments to ICC International Property Maintenance Code. That §§ 103.1 and 103.2 of the International Property Maintenance Code are stricken and new §§ 103.1 and 103.2 be created as follows:

Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Property Maintenance Code shall be known as Building Inspectors.

Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC it shall mean "building inspector." (as added by Ord. #1458, April 2016)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 604-78-5795.

## CHAPTER 11<sup>1</sup>

### ENERGY CONSERVATION CODE

#### SECTION

12-1101. Code adopted.

12-1102. Amendments to the International Energy Conservation Code.

**12-1101. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations for the design of energy efficient building envelopes and installation of energy efficient mechanical, lighting, and power systems through requirements emphasizing performance found in the International Energy Conservation Code, published by the International Code Council, 2009 edition with revisions thereof hereafter enacted thereof, save and except such portions as are here in after deleted, modified, or amended, or further set forth in § 12-1102 or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provision thereof shall be controlling in the construction of all buildings and other structures covered thereby, contained within the city. (as added by Ord. #1459, April 2016)

**12-1102. Amendments to the International Energy Conservation (IECC) Code.** That the ICC International Energy Conservation Code (IECC) be adopted with the following amendments:

- (1) Amendment to Section 202 General Definitions.

Code Official. The building inspectors appointed by the Director of Planning and Codes shall be charged with the enforcement of this code. All building inspectors shall be in compliance with state law.

- (2) That Section 401.3 Certificate of the IECC shall be deleted.
- (3) That Section 402.2.3 Access hatches and doors of the IECC shall be deleted.
- (4) That Section 402.2.6 Floors of the IECC shall be deleted.
- (5) That Section 402.2.8 Slab-on-grade floors of the IECC shall be deleted.
- (6) That Section 402.2.9 Crawl space walls of the IECC shall be deleted.
- (7) That Section 402.4.1.2 Testing of the IECC be shall deleted.
- (8) That Section 403.1.1 Programmable Thermostat of the IECC shall be deleted. (as added by Ord. #1459, April 2016)

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<sup>1</sup>The original chapter 11 was deleted by Ord. #1364, Feb. 2008.

**CHAPTER 12**

**[DELETED.]**

(Ord. #1166, Oct. 1996, modified, as deleted by Ord. #1364, Feb. 2008)

## CHAPTER 13

### EXISTING BUILDINGS CODE

#### SECTION

12-1301. Code adopted.

12-1302. Amendments to ICC International Existing Building Code.

**12-1301. Code adopted.** There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every existing building or structure or any appurtenances connected or attached to such buildings or structures, that certain code known as the International Existing Buildings Code,<sup>1</sup> published by the International Code Council, 2009 edition, and amendments thereto, save and except such portions as are herein deleted, modified, or amended, or are in conflict with this code of ordinances, a copy of which is on file in the city recorder's office and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the renovation of all buildings and other structures covered thereby, located within the City of Tullahoma, Tennessee. (Ord. #1164, Oct. 1996, as amended by Ord. #1333, June 2006, Ord. #1364, Feb. 2008, and Ord. #1458, April 2016)

**12-1302. Amendments to ICC International Existing Building Code.** That §§ 103.1 and 103.2 of the International Existing Building Code are stricken and new §§ 103.1 and 103.2 be created as follows:

Section 103.1 General. The Department of Planning and Codes is hereby created and the officials charged with the inspections and code enforcement of the adopted ICC Existing Building Code shall be known as Building Inspectors.

Section 103.2 Appointment. Building inspectors shall be appointed by the Director of Planning and Codes. All building inspectors shall be in compliance with state law. When the title "Code Official" is used in any adopted ICC it shall mean "building inspector." (as added by Ord. #1458, April 2016)

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



**CHAPTER 14**

**LIFE SAFETY CODE**

**SECTION**

12-1401. Code adopted.

**12-1401. Code adopted.** There is hereby adopted all the provisions of the National Fire Prevention Association (NFPA) Life Safety Code, enacted,<sup>1</sup> and the 2003 Life Safety Code and all revisions hereafter enacted, save and except for such portions thereof as are hereinafter deleted, modified, amended, or are in conflict with this code of ordinances, of which not less than three (3) copies have been and now are filed in the office of the city recorder and the same are hereby adopted and incorporated as fully as if set forth in full and at length herein, and the provisions thereof shall be controlling those matters to which said code deals. (Ord #1163, Oct. 1996, as amended by Ord. #1333, June 2006)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, 1 Batterymarch park, Quincy, Massachusetts 02269-9101.

**CHAPTER 15**

**[DELETED]**

**SECTION**

12-1501. [Deleted.]

**12-1501. [Deleted].** (Ord. #1185, Aug. 1997, as deleted by Ord. #1333, June 2006)

**CHAPTER 16****ADMINISTRATIVE HEARING OFFICE****SECTION**

- 12-1601. Municipal administrative hearing officer.
- 12-1602. Communication by administrative hearing officer and parties.
- 12-1603. Appearance by parties and/or counsel.
- 12-1604. Pre-hearing conference and orders.
- 12-1605. Appointment of administrative hearing officer/administrative law judge.
- 12-1606. Training and continuing education.
- 12-1607. Jurisdiction not exclusive.
- 12-1608. Citations for violations—written notice.
- 12-1609. Review of citation—levy of fines.
- 12-1610. Party in default.
- 12-1611. Petitions for intervention.
- 12-1612. Regulating course of proceedings—hearing open to public.
- 12-1613. Evidence and affidavits; notice.
- 12-1614. Final orders.
- 12-1615. Final orders effective date.
- 12-1616. Collection of fines, judgments and debts.
- 12-1617. Judicial review of final order.
- 12-1618. Appeal to court of appeals.

**12-1601. Municipal administrative hearing officer.** (1) In accordance with Tennessee Code Annotated, title 6, chapter 54, part 10, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the Tullahoma Municipal Code relating to building and property maintenance including:

- (a) Building codes found at § 12-201, et seq.
- (b) Residential codes found at § 12-901, et seq.
- (c) Plumbing codes found at § 12-701, et seq.
- (d) Electrical codes § 12-301, et seq.
- (e) Gas codes § 12-401, et seq.
- (f) Mechanical codes § 12-801, et seq.
- (g) Energy codes § 12-901, et seq.
- (h) Property maintenance codes § 12-1001, et seq.; and
- (i) All ordinances regulating any subject matter commonly found in the above-described codes.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to Tennessee Code Annotated, § 68-120-101(a) enforced by deputy building inspector pursuant to Tennessee Code Annotated, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the administrative hearing officer and shall be an alternative to the enforcement in the City of Tullahoma Municipal Court.

(2) There is hereby created one (1) administrative hearing officer(s) position to be appointed pursuant to § 12-1605 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the board of mayor and aldermen.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city administrator.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in Tennessee Code Annotated, title 6, chapter 54, section 1001, et seq. (as added by Ord. #1425, April 2012)

**12-1602. Communication by administrative hearing officer and parties.** (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

(2) Notwithstanding subsection (1), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.

(3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.

(4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5).

(5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring

to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (as added by Ord. #1425, April 2012)

**12-1603. Appearance by parties and/or counsel.** (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, other representative. (as added by Ord. #1425, April 2012)

**12-1604. Pre-hearing conference and orders.** (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representative hearing officer for a conference to consider:

- (i) The simplification of issues;
- (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
- (iii) The limitation of the number of witnesses; and
- (iv) Such other matters as may aid in the disposition of the action.

(b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

(2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.

(3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (as added by Ord. #1425, April 2012)

**12-1605. Appointment of administrative hearing officer/administrative law judge.** (1) The administrative hearing officer shall be appointed by board of mayor and aldermen and serve at the pleasure of the

board of mayor and aldermen. Such administrative hearing officer may be hired on a part-time or full-time basis, by contract, or by interlocal agreement with one (1) or more eligible municipalities.

(2) An administrative hearing officer shall be one (1) of the following:

- (a) Licensed building inspector;
- (b) Licensed plumbing inspector;
- (c) Licensed electrical inspector;
- (d) Licensed attorney;
- (e) Licensed architect;
- (f) Licensed engineer; or

(3) The city may also contract with the administrative procedures division office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the training or continuing education requirements of Tennessee Code Annotated, § 6-54-1007(a) and (b). (as added by Ord. #1425, April 2012)

**12-1606. Training and continuing education.** (1) Each person appointed to serve as an administrative hearing officer shall, within the six-month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Services (MTAS), or its designee(s). MTAS shall issue a certificate of participation to each person whose attendance is satisfactory.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the administrative hearing officer(s). No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year. (as added by Ord. #1425, April 2012)

**12-1607. Jurisdiction not exclusive.** The power and authority of vested in the office of administrative hearing is not exclusive and does not terminate or diminish any other existing municipal power or authority. The board of mayor and aldermen may direct a municipal officer or employee to develop criteria for determining when to exercise administrative enforcement. (as added by Ord. #1425, April 2012)

**12-1608. Citations for violations—written notice.** (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

- (a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the

citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;

(b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;

(c) Contact information for the city's administrative hearing office; and

(d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.

(2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.

(3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (as added by Ord. #1425, April 2012)

**12-1609. Review of citation--levy of fines.** (1) Upon receipt of a citation issued pursuant to § 12-1608, the administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

(a) For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For purposes of the administrative hearing officer program, "residential property" means a single family dwelling principally used as the property owner's primary residence and the real property upon which it sits.

(b) For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. For purposes of the administrative hearing officer program, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.

(2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) or greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:

(a) The fine and remedial period established pursuant to subsections (1) and (2);

(b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.

(4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (as added by Ord. #1425, April 2012)

**12-1610. Party in default.** (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (as added by Ord. #1425, April 2012)

**12-1611. Petitions for intervention.** (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

(a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;



(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

(b) Limiting the intervenor's participation so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more intervenors to combine their participation in the proceedings.

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (as added by Ord. #1425, April 2012)

**12-1612. Regulating course of proceedings—hearing open to public.** (1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.

(3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(4) The hearing shall be open to public observation pursuant to Tennessee Code Annotated, title 8, chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall

be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (as added by Ord. #1425, April 2012)

**12-1613. Evidence and affidavits; notice.** (1) In an administrative hearing:

(a) While the administrative hearing officer is not bound by the Tennessee Rules of Civil Procedure nor bound by the Tennessee Rules of Evidence, the administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;

(b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to cross-examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subsection (2), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt;

(c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice;

(d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and

(e) (i) Official notice may be taken of:

(A) Any fact that could be judicially noticed in the courts of this state;

(B) The record of other proceedings before the agency; or

(C) Technical or scientific matters within the administrative hearing officer's specialized knowledge; and

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(2) The notice referred to in subsection (b) shall contain the following information and be substantially in the following form:

The accompanying affidavit of \_\_\_\_\_ (here insert name of affiant) will be introduced as evidence at the hearing in \_\_\_\_\_ (here insert title of proceeding). \_\_\_\_\_ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify \_\_\_\_\_ (here insert name of the proponent or the proponent's attorney) at \_\_\_\_\_ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to \_\_\_\_\_ (here insert name of proponent or the proponent's attorney) on or before \_\_\_\_\_ (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party). (as added by Ord. #1425, April 2012)

**12-1614. Final orders.** (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

(2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.

(3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(4) If an individual serving or designed to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.

(5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (as added by Ord. #1425, April 2012)

**12-1615. Final order effective date.** (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (as added by Ord. #1425, April 2012)

**12-1616. Collection of fines, judgments and debts.** The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (as added by Ord. #1425, April 2012)

**12-1617. Judicial review of final order.** (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to Tennessee Code Annotated, title 6, chapter 54, part 10, which shall be the only available method of judicial review.

(2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.

(3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

(4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the

review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.

(7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.

(8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the administrative hearing officer;
- (c) Made upon unlawful procedure;
- (d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

(9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (as added by Ord. #1425, April 2012)

**12-1618. Appeal to court of appeals.** (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the court of appeals of Tennessee.

(2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to title 24 shall become a part of the record.

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (as added by Ord. #1425, April 2012)