

**THE  
BENTON  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

September 2006

**TOWN OF BENTON, TENNESSEE**

**MAYOR**

Jerry T. Stephens

**COMMISSIONERS**

Joe Jenkins

**VICE MAYOR**

Gene Pack

**RECORDER**

Deborah Swigert

## PREFACE

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

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

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

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

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

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

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Linda Dean, Administrative Specialist, is gratefully acknowledged.

Steve Lobertini  
Codification Consultant

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

. . . The enacting clause of ordinances shall be "Be it ordained by the board of the Town of Benton:". No action of the board shall be valid or binding unless approved by the affirmative vote of at least two (2) members of the board. Any ordinance which repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or as amended. Every ordinance must be approved on two (2) readings, and shall become effective twenty (20) days after approval on second reading unless its terms provide a later effective date. Every ordinance, except codes adopted by reference as provided in subsection (c) below,<sup>1</sup> shall be read by caption only. Each resolution shall be read by caption only one (1) time and shall become effective. To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted and become effective immediately, by the affirmative votes of two (2) members of the board, if the ordinance contains a full statement of the facts creating the emergency; but any emergency ordinance shall be effective for only ninety (90) days. Appropriations, revenues, franchises, contracts, levy of taxes, borrowing money, or special privileges shall not be passed as emergency ordinances. . . .(Priv. acts, 1988, ch. 204, § 207(a))

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<sup>1</sup> Section 207(c) states: "Standard codes, as defined in Section 1.02(f) may be adopted by ordinances which contain only references to titles, dates, issuing organizations, and such changes to the standard codes as the board may deem desirable. Procedures prescribed by general law shall be followed when adopting such standard codes. Copies of the official code and any standard codes so adopted by references shall be available to the public at prices fixed by the board."

## TITLE 1

### GENERAL ADMINISTRATION<sup>1</sup>

#### CHAPTER

1. BOARD OF COMMISSIONERS.
2. MAYOR.
3. RECORDER.

#### CHAPTER 1

### BOARD OF COMMISSIONERS<sup>2</sup>

#### SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Introduction of resolutions and ordinances.
- 1-105. Passage of motions and resolutions.

**1-101. Time and place of regular meetings.** The board of commissioners shall hold regular monthly meetings at 7:00 P.M. on the first Monday of each month at the town hall. (1990 Code, § 1-101)

**1-102. Order of business.** At each meeting of the 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 recorder.

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#### <sup>1</sup>Charter references

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

#### Municipal code references

Fire department: title 7.  
 Slum clearance: title 13.  
 Utilities: titles 18 and 19.  
 Wastewater treatment: title 18.  
 Zoning: title 14.

#### <sup>2</sup>Charter references

For charter provisions related to the board of commissioners, see particularly sections 2.01, 2.02, 2.04, and 2.05.

- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (4) Unfinished business.
- (5) Hearing petitions and communications.
- (6) Officers' reports
- (7) Passing on accounts.
- (8) Reports of committees and members of the board of commissioners.
- (9) New business.
- (10) Introduction of new ordinances.
- (11) Adjournment. (1990 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 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. (1990 Code, § 1-103, modified)

**1-104. Introduction of resolutions and ordinances.** All resolutions and ordinances shall be reduced to writing before being introduced and shall be read to the board and then seconded before they are open for debate or may be acted upon. (1990 Code, § 1-104)

**1-105. Passage of motions and resolutions.** It shall be necessary for motions and resolutions to be passed on only one reading. (1990 Code, § 1-105)

**CHAPTER 2****MAYOR<sup>1</sup>****SECTION**

1-201. Generally supervises town's affairs.

1-202. Executes town's contracts.

**1-201. Generally supervises town's affairs.** The mayor shall have 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. He shall make known to the board of commissioners the wants and necessities of the town, and shall recommend the passage of such measures as he thinks the welfare of the town demands. (1990 Code, § 1-201)

**1-202. Executes town's contracts.** The mayor shall execute all contracts as authorized by the board of commissioners. (1990 Code, § 1-202)

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<sup>1</sup>Charter references

For charter provisions related to the mayor, see particularly sections 2.01, 2.03, 3.02, 3.10 and 4.02.



**CHAPTER 3****RECORDER<sup>1</sup>****SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-304. To be treasurer.

**1-301. To be bonded.** The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of commissioners. (1990 Code, § 1-301)

**1-302. To keep minutes, etc.** The recorder shall keep the minutes of all meetings of the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (1990 Code, § 1-302)

**1-303. To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the board of commissioners and for the town which are not assigned by the charter, this code, or the board of commissioners to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1990 Code, § 1-303)

**1-304. To be treasurer.** The recorder shall also be the treasurer of the town. (1990 Code, § 1-304)

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<sup>1</sup>Charter references

For charter provisions relating to the recorder, see particularly sections 3.03 and 3.05.

**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.**

**[RESERVED FOR FUTURE USE]**

**TITLE 3****MUNICIPAL COURT<sup>1</sup>****CHAPTER**

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

**CHAPTER 1****TOWN ATTORNEY****SECTION**

- 3-101. General duties.
- 3-102. Employment of additional counsel.
- 3-103. Incompetence of town attorney.
- 3-104. Examination of ordinances.

**3-101. General duties.** It shall be the duty of the town attorney to represent the corporation in all suits in which it may be engaged or concerned in any of the courts of the town or state; to give legal advise and written opinions to any of the officers of the town in such matters as touch the interests of the corporation, when requested to do so by the board of commissioners or by the mayor; and to perform such other services as are incident to the office. He shall attend all meetings of the board of commissioners when requested to do so by the mayor. (1990 Code, § 1-401)

**3-102. Employment of additional counsel.** In all suits by or against the corporation in which a large amount of money or an important principle is involved, the mayor may, if he deems necessary, employ additional counsel, and agree to pay a reasonable fee for the same. (1990 Code, § 1-402)

**3-103. Incompetence of town attorney.** When the town attorney is incompetent by reason of interest or otherwise to represent the town in any matter, the board of commissioners shall have power to employ another attorney

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<sup>1</sup>Charter references

For charter provisions relating to the town attorney, see particularly § 3.04.

to represent the town, and it shall contract in advance to pay only such fee as is reasonable for the services such attorney may render. (1990 Code, § 1-403)

**3-104. Examination of ordinances.** It shall be the duty of the town attorney to examine all ordinances considered by the board of commissioners at any time he may be called upon so to do by any member of the board, and when requested he shall give an opinion as to the validity of such ordinances. (1990 Code, § 1-404)

**CHAPTER 2****TOWN COURT<sup>1</sup>****SECTION**

3-201. Town judge.

3-202. Jurisdiction.

**3-201. Town judge.** As provided in section 3.05 of the town's charter, the recorder shall handle judicial matters within the town, shall preside over the town court, and shall be known in his judicial capacity as the town judge. (1990 Code, § 1-601)

**3-202. Jurisdiction.** The town judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying civil penalty under the general penalty provision of this code.

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<sup>1</sup>Charter reference

See particularly section 3.05 of the charter.

## CHAPTER 3

### COURT ADMINISTRATION

#### SECTION

3-301. Maintenance of docket.

3-302. Imposition of penalties and costs.

3-303. Disposition and report of penalties and costs.

3-304. Disturbance of proceedings.

**3-301. Maintenance of docket.** The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant. (1990 Code, § 1-602, modified)

**3-302. Imposition of penalties and costs.** All penalties and costs shall be imposed and recorded by the town judge on the town court docket in open court.

In all cases heard or determined by him, the town judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions<sup>1</sup> for similar work in state cases. (1990 Code, § 1-608)

**3-303. Disposition and report of penalties and costs.** All funds coming into the hands of the town judge in the form of penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all penalties and costs imposed by his court during the current month and to date for the current fiscal year. (1990 Code, § 1-611)

**3-304. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1990 Code, § 1-612)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 8-21-401.

## CHAPTER 4

**WARRANTS, SUMMONSES AND SUBPOENAS****SECTION**

3-401. Issuance of arrest warrants.

3-402. Issuance of summonses.

3-403. Issuance of subpoenas.

**3-401. Issuance of arrest warrants.**<sup>1</sup> The town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1990 Code, § 1-603)

**3-402. 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. (1990 Code, § 1-604)

**3-403. 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. (1990 Code, § 1-605)

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<sup>1</sup>State law reference

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

## CHAPTER 5

### BONDS AND APPEALS

#### SECTION

3-501. Appearance bonds authorized.

3-502. Appeals.

3-503. Bond amounts, conditions, and forms.

**3-501. Appearance bonds authorized.** (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq. (1990 Code, § 1-607, modified)

**3-502. Appeals.** Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days<sup>1</sup> next after such

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.



judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1990 Code, § 1-609)

**3-503. Bond amounts, conditions, and forms.** (1) Appearance bond.

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.

(2) Appeal bond. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties.

(3) Form of bond. 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.

(4) Pauper's oath. A bond is not required provided the defendant/appellant

(a) Files the following oath of poverty:

I, \_\_\_\_\_, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief;

(b) Files an accompanying affidavit of indigency. (1990 Code, § 1-610, modified)

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY.
2. MISCELLANEOUS

**CHAPTER 1****SOCIAL SECURITY****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the Town of Benton to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivor's insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1990 Code, § 1-701)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1990 Code, § 1-702)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1990 Code, § 1-703)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's

contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1990 Code, § 1-704)

**4-105. Records and reports.** The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1990 Code, § 1-705)

## CHAPTER 2

### MISCELLANEOUS

#### SECTION

- 4-201. Business dealings.
- 4-202. Acceptance of gratuities.
- 4-203. Outside employment.
- 4-204. Political activity.
- 4-205. Use of position.
- 4-206. Strikes and unions.
- 4-207. Personnel policies.

**4-201. Business dealings.** Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the town. (1990 Code, § 1-801)

**4-202. Acceptance of gratuities.** No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business. (1990 Code, § 1-802)

**4-203. Outside employment.** No full-time officer or employee of the town shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the town. (1990 Code, § 1-803)

**4-204. Political activity.** Municipal officers and employees may individually exercise their right to vote and privately express their political views as citizens. However, no municipal officer or employee shall solicit political campaign contributions or engage in or actively participate in any municipal political campaign. These restrictions shall not apply to elective officials. (1990 Code, § 1-804)

**4-205. Use of position.** No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the town, nor shall he otherwise use or attempt to use his position to secure

unwarranted privileges or exemptions for himself or others. (1990 Code, § 1-805)

**4-206. Strikes and unions.** No municipal officer or employee shall participate in any strike against the town, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1990 Code, § 1-806)

**4-207. Personnel policies.** Personnel policies are adopted and amended by resolution.<sup>1</sup>

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<sup>1</sup>Resolutions are available in the recorder's office.

**TITLE 5**

**MUNICIPAL FINANCE AND TAXATION**

**CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

5-101. Official depository for town funds.

**5-101. Official depository for town funds.** The Peoples Bank of Polk County, Tennessee, is hereby designated as the official depository for all town funds.

## CHAPTER 2

REAL PROPERTY TAXES

## SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

**5-201. When due and payable.** Taxes levied by the town against real property shall become due and payable annually on the first day of October of the year for which levied.<sup>1</sup> (1990 Code, § 6-101)

**5-202. When delinquent--penalty and interest.** All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as provided in the town's charter. (1990 Code, § 6-102)

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<sup>1</sup>Charter reference  
See § 4.15.

**CHAPTER 3****PRIVILEGE TAXES****SECTION**

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act"<sup>1</sup> 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. (1990 Code, § 6-201)

**5-302. License required.** No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the town recorder to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1990 Code, § 6-202)

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<sup>1</sup>State law reference

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



## CHAPTER 4

**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

**5-401. To be collected.** The town recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup>

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<sup>1</sup>State law reference

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

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

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

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.

**CHAPTER 1****POLICE DEPARTMENT**<sup>1</sup>**SECTION**

- 6-101. Police officers subject to chief's orders.  
6-102. Police officers to preserve law and order, etc.  
6-103. Police officers to wear uniforms and be armed.  
6-104. 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. (1990 Code, § 1-501)

**6-102. Police officers to preserve law and order, etc.** Police officers shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Police officers shall also promptly serve any legal process issued by the town court. (1990 Code, § 1-502)

**6-103. Police officers to wear uniforms and be armed.** All police officers shall wear such uniform and badge as the board of commissioners shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1990 Code, § 1-503)

**6-104. Police department records.** The police department shall keep a comprehensive and detailed daily record, in permanent form, showing at a minimum:

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<sup>1</sup>Municipal code references

Escape from custody or confinement: § 11-601.

False emergency alarms: § 11-603.

Impersonating a government officer or employee: § 11-602.

Traffic citations, etc.: title 15.

(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 conveyed, fire calls answered, and other miscellaneous activities of the police department.

(4) Any other records required to be kept by the board of commissioners or by law.

The police chief shall be responsible for insuring that the police department complies with the section. (1990 Code, § 1-506, modified)

## CHAPTER 2

### ARREST PROCEDURES

#### SECTION

6-201. When police officers to make arrests.

6-202. Disposition of persons arrested.

**6-201. When police officers to make arrests.** 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. (1990 Code, § 1-504)

**6-202. Disposition of persons arrested.** (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinance, shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (1990 Code, § 1-505, modified)

## TITLE 7

### FIRE PROTECTION AND FIREWORKS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS
2. FIREWORKS

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 7-101. Fire limits described.
- 7-102. Wooden buildings prohibited in fire limits.
- 7-103. Building materials allowed in fire limits.
- 7-104. Permit required.
- 7-105. Repair of buildings.
- 7-106. Violations.

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

Beginning at 411 Highway at creek, running with creek east to sand gully and up sand gully west of church to Prince Street, up Prince Street to corner of Charlie Bates and Nora Clayton line, then down alley to 411 Highway, crossing highway and up alley between Buck Arm and Hoyt Lillard to street, then north on street by jail to creek, then up creek to 411 Highway. (1990 Code, § 7-101)

**7-102. Wooden buildings prohibited in fire limits.** It shall be unlawful to erect a wooden building of any character within the fire limits. (1990 Code, § 7-102)

**7-103. Building materials allowed in fire limits.** It shall be unlawful to construct or build any building of any material within the fire limits, except of brick, concrete, or substance not of an inflammable character; and all flues and chimneys shall be built from the ground up and extending above the roof of

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<sup>1</sup>Municipal code references

Limited use of unmetered private fire lines: § 18-123.

Fires in streets prohibited: § 16-111.

the building to a sufficient height to protect against fire, and said chimneys shall be built of brick or concrete and set in concrete. (1990 Code, § 7-103)

**7-104. Permit required.** It shall be unlawful for any person, firm, or corporation to commence the construction of any building in the fire limits without first obtaining a written permit from the recorder, after submitting in writing the kind of material to be used in the constructing of the building and the approximate cost of the building.

In the event the recorder in his discretion refuses to issue the permit for the construction of the building, for any reason, the person, firm, or corporation may present a request to the board of commissioners at a regular meeting of said board, and said board shall decide the question by a majority vote. (1990 Code, § 7-104)

**7-105. Repair of buildings.** It shall be unlawful for any person, firm, or corporation to repair or cause to be repaired any building constructed of wood or inflammable materials with wood or like materials, when the same has depreciated more than fifty percent or has become dangerous or unhealthy, or would increase the fire hazard to adjoining property; and any person, firm, or corporation before repairing any building within the area described in this chapter shall obtain a permit as herein required for new buildings. (1990 Code, § 7-105)

**7-106. Violations.** Should any person, firm, or corporation, by misrepresentation of facts, procure a permit from the recorder to construct or repair a building, and the constructing or repairing of such building is not done in compliance with this chapter, the recorder shall order the same to be torn down, and failure of the person, firm, or corporation to comply with the order of the recorder shall be a violation of this section. (1990 Code, § 7-106)

## CHAPTER 2

### FIREWORKS

#### SECTION

- 7-201. Sale and manufacture of fireworks prohibited; exceptions.
- 7-202. Definition of fireworks.
- 7-203. Buildings used for the sale of fireworks.
- 7-204. Discharge of fireworks prohibited within the town.
- 7-205. Special fireworks displays.
- 7-206. Violations.

**7-201. Sale and manufacture of fireworks prohibited; exceptions.**

The sale or manufacture of any fireworks within the corporate limits of the Town of Benton, Tennessee, is prohibited, except as to any business(es) presently existing and presently doing such business. Such presently existing business(es) may continue the sale only, but not the manufacture, of fireworks in conformity with all town, county and state laws, rules and regulations. (1990 Code, § 7-201)

**7-202. Definition of fireworks.** "Fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths (.25) of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times. (1990 Code, § 7-202)

**7-203. Buildings used for the sale of fireworks.** Any building used for the sale of fireworks shall conform to any applicable building code provisions which pertain to buildings of its type, use and location. (1990 Code, § 7-203)

**7-204. Discharge of fireworks prohibited within the town.** It shall be unlawful for any person to discharge any type of fireworks within the town limits. (1990 Code, § 7-204)

**7-205. Special fireworks displays.** Special public fireworks displays may be held when a permit therefor has been issued by the state fire marshal

and approval for the display has been granted by the town commission. A copy of the permit issued by the state fire marshal must be submitted to the town commission not less than fifteen (15) days in advance of the proposed fireworks displays. (1990 Code, § 7-205)

**7-206. Violations.** It shall be unlawful for any person or organization to violate any provision of this chapter. Violations shall be punished according to the general penalty provision of this code of ordinances. (1990 Code, § 7-206)



**TITLE 8****ALCOHOLIC BEVERAGES**<sup>1</sup>**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except as authorized by applicable laws,<sup>2</sup> and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Benton. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1990 Code, § 2-101)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference  
Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

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

**8-201. Beer board established.** There is hereby established a beer board to be composed of three (3) members, one (1) of which shall be a member of the board of commissioners. The board of commissioners shall appoint the members of the beer board. A chairman shall be elected annually by the beer board from among its members. All members of the beer board shall serve without compensation. (Ord. #137, March 2003)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #137, March 2003)

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<sup>1</sup>Municipal code references

Drinking alcoholic beverages in public, etc.: § 11-201.

General business regulations: title 9.

State law reference

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

**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. (Ord. #137, March 2003)

**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. (Ord. #137, March 2003)

**8-205. Powers and duties of the beer board.**<sup>1</sup> 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. (Ord. #137, March 2003)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #137, March 2003)

**8-207. Permit required for engaging in beer business.**<sup>2</sup> It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Benton. 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. (Ord. #137, March 2003)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 57-5-106.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 57-5-103.

**8-208. Privilege tax.**<sup>1</sup> There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town of Benton, 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. (Ord. #137, March 2003)

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

(2) Classes of consumption permits issued by the board shall consist of two (2) classes:

(a) Class 1 On Premises Permit. (i) A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises Permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(A) Be primarily a restaurant or an eating place;

(B) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have;

(C) All seating must be part of the premises. In case of any outdoor seating, the outdoor seating area must be accessible from the inside of the restaurant or eating place and the outdoor seating area must have some type of enclosure around it, such as a wall or fencing;

(D) Each "on site" consumption location shall keep and maintain the premises in a safe, clean and sanitary condition as required for a rating of class "B" or better as established by the Tennessee State Department of

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<sup>1</sup>State law reference

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

Conservation, Division of Hotels and Restaurant Inspections.

(E) Each "on site" consumption location shall maintain proper lighting in the parking lot.

(F) The monthly sales of any establishment which holds a Class 1 on premises permit shall not exceed fifty percent (50%) of the monthly gross sales of the establishment.

(ii) All Class 1 beer permit holders shall submit quarterly sales reports to the City of Benton to assure that the Class 1 permit holder is in compliance with the provisions of this section. The city will keep those forms in the permit holder's individual business tax file so that the confidentiality required by Tennessee Code Annotated, § 67-4-722 may be maintained. The reports shall comply with the following schedule:

Period	Report Due Date
January - March	April 20
April-June	July 20
July-September	October 20
October-December	January 20

(iii) If the monthly beer sales for any Class 1 beer permit holder exceed fifty percent (50%) of the monthly gross sales of the permit holder for either three (3) consecutive months during one calendar year or for any four (4) months in any one calendar year, the Class I permit of such permit holder may be suspended or revoked by the beer board.

(b) Class 2 Off Premises Permit. An off premises permit shall be issued for the consumption of beer only off the premises. (Ord. #150, Sept. 2006)

**8-210. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred (300) feet of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest corner of the building from which the beer will be manufactured, stored or sold to the nearest corner of the building of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence,

church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 1993. (Ord. #137, March 2003)

**8-211. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of beer or other alcoholic beverage, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (Ord. #137, March 2003)

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

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

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

(3) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week; and at any time on Sunday.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

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

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

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

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

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

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #137, March 2003)

**8-213. Revocation of beer permits.**<sup>1</sup> The beer board shall have the power to revoke 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 until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (Ord. #137, March 2003)

**8-214. Civil penalty in lieu of suspension.**<sup>2</sup> The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense 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. 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 suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #137, March 2003)

**8-215. Violations.** Except as provided in § 8-214, 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. (Ord. #137, March 2003)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-108(a)(1).

<sup>2</sup>State law reference

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

## TITLE 9

### BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### CHAPTER

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

#### CHAPTER 1

### PEDDLERS, SOLICITORS, ETC.

#### 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. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violation 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.

(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

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<sup>1</sup>Municipal code references

Junkyards: § 13-107.

Liquor and beer regulations: title 8.

Noise reductions: title 11 chapter 5.

Trespassing: title 11, chapter 8.



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

(3) "Solicitor for charitable or religious purposes," means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

(4) "Solicitor for subscriptions," means any person who solicits subscriptions from the public, either on the streets of the town, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor,"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously

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<sup>1</sup>State 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 \$50.00 for each 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).

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.

(6) "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. (1990 Code, § 5-101)

**9-102. Exemptions.** The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1990 Code, § 5-102)

**9-103. Permit required.** No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1990 Code, § 5-103)

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

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

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

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

(d) The 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) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the town recorder, the town recorder shall submit to the chief of police a copy of the application form and the permit. (1990 Code, § 5-104)

**9-105. Restrictions on peddlers, street barkers and solicitors.** No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1990 Code, § 5-105)

**9-106. Restrictions on transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1990 Code, § 5-106)

**9-107 Display of permit.** Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be

required to display the same to any police officer upon demand. (1990 Code, § 5-107)

**9-108. Suspension or revocation of permit.** (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the town recorder for any of the following causes:

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, after notice and hearing, for the same causes set out in Paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the town recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1990 Code, § 5-108)

**9-109. Expiration and renewal of permit.** The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1990 Code, § 5-109)

**9-110. Violation and penalty.** In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (1990 Code, § 5-110)

## CHAPTER 2

### YARD SALES

#### SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Permit conditions.
- 9-206. Hours of operation.
- 9-207. Exceptions.
- 9-208. Display of sale property.
- 9-209. Display of permit.
- 9-210. Advertising signs.
- 9-211. Persons exempted from chapter.
- 9-212. Penalty.

**9-201. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (1990 Code, § 5-201)

**9-202. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (1990 Code, § 5-202)

**9-203. Permit required.** No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the town recorder. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of

them. Permits may be obtained for any nonresidential location. (1990 Code, § 5-203)

**9-204. Permit procedure.** (1) Application. The applicant or applicants for a garage sale permit shall file a written application with the town recorder at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the proposed garage sale is to be held.
- (c) The date or dates upon which the sale shall be held.
- (d) The date or dates of any other garage sales by

the same applicant or applicants within the current calendar year.

- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale.

- (f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Issuance of permit. Upon the applicant complying with the terms of this chapter, the town recorder shall issue a permit. (1990 Code, § 5-204)

**9-205. Permit conditions.** The permit shall set forth and restrict the time and location of such garage sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year. (1990 Code, § 5-205)

**9-206. Hours of operation.** Such garage sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. of two (2) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (1990 Code, § 5-206)

**9-207. Exceptions.** (1) If sale not held because of inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the town recorder shall issue another permit to the applicant for a garage sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the town recorder. (1990 Code, § 5-207)

**9-208. Display of sale property.** Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (1990 Code, § 5-208)

**9-209. Display of permit.** Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any town official. (1990 Code, § 5-209)

**9-210. Advertising signs.** (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

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

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

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

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (1990 Code, § 5-210)

**9-211. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Benton, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (1990 Code, § 5-211)

**9-212. Penalty.** Any person found guilty of violating the terms of this chapter shall be punished according to the general penalty provisions of this municipal code of ordinances. (1990 Code, § 5-212)

**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 Benton and its inhabitants under franchise granted to Mid-Tenn Cable by the board of commissioners of the Town of Benton, Tennessee. The rights, powers, duties and obligations of the Town of Benton and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup> (1990 Code, § 13-301)

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<sup>1</sup>For complete details relating to the cable television franchise agreement see ordinance dated 7-7-86 in the office of the town recorder.



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

1. IN GENERAL.
2. DOGS.

**CHAPTER 1****IN GENERAL**<sup>1</sup>**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. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Butchering animals.
- 10-108. Seizure and disposition of animals.
- 10-109. Inspections of premises.

**10-101. Running at large prohibited.** It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1990 Code, § 3-101)

**10-102. Keeping near a residence or business restricted.** No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street without a permit from the health officer. Provided that fowl (including chickens) cannot be kept in excess of twenty per structure. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. It shall be unlawful

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<sup>1</sup>Municipal code references

Animals on sidewalks: § 16-110.

Dead animals: § 13-105.

to keep hogs or pigs inside the corporate limits under any circumstances. (1990 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 enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1990 Code, § 3-103)

**10-104. Adequate food, water, and shelter, etc., to be provided.** No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1990 Code, § 3-104)

**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. (1990 Code, § 3-105)

**10-106. Cruel treatment prohibited.** It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1990 Code, § 3-106)

**10-107. Butchering animals.** It shall be unlawful to butcher cattle, hogs, sheep, or other animals within the town. (1990 Code, § 3-107)

**10-108. Seizure and disposition of animals.** Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1990 Code, § 3-108)

**10-109. Inspections of premises.** For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1990 Code, § 3-109)

## CHAPTER 2

### DOGS

#### SECTION

10-201. Rabies vaccination and registration required.

10-202. Dogs to wear tags.

10-203. Running at large prohibited.

10-204. Vicious dogs to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law"<sup>1</sup> or other applicable law. (1990 Code, § 3-201)

**10-202. Dogs to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1990 Code, § 3-202)

**10-203. Running at large prohibited.**<sup>2</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1990 Code, § 3-203)

**10-204. Vicious dogs to be securely restrained.** It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1990 Code, § 3-204)

**10-205. Noisy dogs prohibited.** No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1990 Code, § 3-205)

**10-206. Confinement of dogs suspected of being rabid.** If any dog has bitten any person or is suspected of having bitten any person or is for any

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 68-8-101 through 68-8-114.

<sup>2</sup>State law reference

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

reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1990 Code, § 3-206)

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

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.<sup>1</sup> (1990 Code, § 3-207)

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<sup>1</sup>State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

**TITLE 11****MUNICIPAL OFFENSES<sup>1</sup>****CHAPTER**

1. ALCOHOL.
2. FORTUNE TELLING.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.

**CHAPTER 1****ALCOHOL<sup>2</sup>****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. (1990 Code, § 10-202)

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<sup>1</sup>Municipal code references

Animals and fowls: title 10.

Housing: titles 13 and 20.

Fireworks and explosives: title 7.

Refuse: title 17.

Traffic offenses: title 15.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

**CHAPTER 2****GAMBLING, FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling.

**11-201. Fortune telling.** It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1990 Code, § 10-303)

**CHAPTER 3****OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

**11-301. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1990 Code, § 10-501)

**11-302. Anti-noise regulations.** Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

(c) **Yelling, shouting, 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.

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

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

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

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

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

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

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

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

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

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

(a) 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 and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the 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. (1990 Code, § 10-502)

**CHAPTER 4****INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL****SECTION**

11-401. Impersonating a government officer or employee.

11-402. False emergency alarms.

**11-401. Impersonating a government officer or employee.** No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1990 Code, § 10-602)

**11-402. False emergency alarms.** It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1990 Code, § 10-603)

**CHAPTER 5****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-501. Air rifles, etc.

11-502. Throwing missiles.

11-503. Discharge of firearms.

**11-501. 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. (1990 Code, § 10-701)

**11-502. Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1990 Code, § 10-702)

**11-503. Discharge of firearms.** It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1990 Code, § 10-703)

## CHAPTER 6

**TRESPASSING AND  
INTERFERENCE WITH TRAFFIC****SECTION**

11-601. Trespassing.

11-602. Interference with traffic.

**11-601. Trespassing.**<sup>1</sup> (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.<sup>2</sup> (1990 Code, § 10-801)

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<sup>1</sup>State law reference

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, § 39-3-1201 et seq.

<sup>2</sup>Municipal code reference

Peddlers and solicitors: title 9.

**11-602. Interference with traffic.**<sup>1</sup> It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1990 Code, § 10-803)

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<sup>1</sup>Municipal code reference  
Streets and sidewalks, etc.: title 16.

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

[RESERVED FOR FUTURE USE]

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE

#### 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. Junkyards.
- 13-108. Inoperative vehicles on or adjacent to residential property.

**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. (1990 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. (1990 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 recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1990 Code, § 8-103)

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<sup>1</sup>Municipal 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 accumulation of debris, trash, litter, or garbage or any contamination 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) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. 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 Benton Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

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

(5) 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 commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be

assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Polk County, the costs shall be a lien on the property in favor of the town, second only to liens of the state, county, and town for taxes, any lien of the town for special assessments, and any valid lien, right, or interest in such 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 town 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.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (4) 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 public officer or of the board of commissioners under this section may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements. (1990 Code, § 8-104)

**13-105. Dead animals**. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1990 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: (1990 Code, § 8-106)

**13-107. Junkyards.** All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

(2) All such junk yards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1990 Code, § 8-107)

**13-108. Inoperative vehicles on or adjacent to residential property.** It shall be unlawful for the owner or person in control of any residential lot in the town to keep any inoperative motor vehicle on the lot or on any street adjacent to the lot for more than ten (10) days unless the vehicle is completely enclosed within a building. (1990 Code, § 8-108)

## CHAPTER 2

### SLUM CLEARANCE<sup>1</sup>

#### SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

**13-201. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

**13-202. Definitions.** (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

(3) "Municipality" shall mean the Town of Benton, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

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

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

**13-203. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the mayor of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the mayor.

**13-204. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

**13-205. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

**13-206. When public officer may repair, etc.** If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

**13-207. When public officer may remove or demolish.** If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

**13-208. Lien for expenses; sale of salvaged materials; other powers not limited.** The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds Polk County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom

said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Polk County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Benton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

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

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

**13-211. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the

posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

**13-212. Additional powers of public officer.** The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

**13-213. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

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

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



**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. FLOOD DAMAGE PREVENTION ORDINANCE.

**CHAPTER 1****MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.  
14-102. Organization, powers, duties, etc.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created and established a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members. One of the members shall be the mayor of the municipality, or a person designated by the mayor and one of the members shall be a member of the board of commissioners. All other members shall be appointed by the mayor.

All members of the planning commission shall serve without compensation. The initial commission shall be appointed for five (5), four (4), three (3), two (2) and one (1) year terms. Thereafter the terms shall be for five (5) years, except for the term of the mayor and member of the board of commissioners whose terms shall expire concurrent with their term of office. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at his (her) pleasure. (Ord. #128, Sept. 2000, as amended by Ord. #132, \_\_\_\_\_, and Ord. #140, Dec. 2003)

**14-102. Organization, powers, duties, etc.** The planning commission shall have such organization, rules, staff, powers, functions, duties, and responsibilities as are prescribed in the general law relating to municipal planning commissions in Tennessee Code Annotated, title 13. (Ord. #128, Sept. 2000)

## CHAPTER 2

### FLOOD DAMAGE PREVENTION ORDINANCE

#### SECTION

- 14-201. Statutory authorization, findings of fact, purpose and objectives.
- 14-202. Definitions.
- 14-203. General provisions.
- 14-204. Administration.
- 14-205. Provisions for flood hazard reduction.
- 14-206. Variance procedures.
- 14-207. Legal status provisions.

**14-201. Statutory authorization, findings of fact, purpose and objectives.** (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Benton, Tennessee Mayor and Board of Commissioners, does ordain as follows:

(2) Findings of fact. (a) The Benton Mayor and Board of Commissioners wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(b) of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-88 Edition) and subsequent amendments.

(b) Areas of Benton are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; and by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage;

- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters;
  - (d) Control filling, grading, dredging and other development which may increase erosion or flood damage, and;
  - (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards.
- (4) **Objectives.** The objectives of this ordinance are:
- (a) To protect human life and health;
  - (b) To minimize expenditure of public funds for costly flood control projects;
  - (c) To minimize the need for rescue and relief efforts associated with flooding;
  - (d) To minimize prolonged business interruptions;
  - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodable areas;
  - (f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas;
  - (g) To ensure that potential buyers are notified that property is in a floodable area; and,
  - (h) To establish eligibility for participation in the National Flood Insurance Program. (Ord. #130, Feb. 2001)

**14-202. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

- (1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:
  - (a) Accessory structures shall not be used for human habitation.
  - (b) Accessory structures shall be designed to have low flood damage potential.
  - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - (d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
  - (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.
- (2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.
- (3) "Addition (to an existing building)" means any walled and roofed

expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

(4) "Appeal" means a request for a review of the building official's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(8) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building," for purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure.")

(12) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(13) "Elevated building" means a non-basement building

(a) Built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers),

(b) And adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D,

"elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

(14) "Emergency Flood Insurance Program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(17) "Existing construction" any structure for which the "start of construction" commenced before the effective date of this ordinance.

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

(19) "Existing structures" see "existing construction."

(20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

(24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood related erosion areas having special hazards have been designated as Zone A, M, and/or E.

(25) "Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Map and the water surface elevation of the base flood.

(26) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(27) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(28) "Flood protection system" means those physical structural works for which fluids have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(29) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(30) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

(31) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(32) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

(33) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(34) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood

flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(35) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(36) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(37) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

(38) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior, or

(ii) Directly by the Secretary of the Interior in states without approved programs.

(39) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(40) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(41) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(42) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

(43) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(44) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(45) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(46) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(47) "New construction" any structure for which the "start of construction" commenced on or after the effective date of this ordinance. The term also includes any subsequent improvements to such structure.

(48) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

(49) "100-year flood" see "base flood".

(50) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projections;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and



(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(55) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(56) "State coordinating agency" (Tennessee Department of Economic and Community Development, Local Planning Assistance Office) means the agency of the state government, or other office designated by the Governor of the State or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program in that state.

(57) "Structure", for purposes of this ordinance, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(58) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

(59) "Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before

the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or;

(b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

(60) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(61) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

(62) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(63) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas. (Ord. #130, Feb. 2001)

**14-203. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of Benton, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Benton, Tennessee, Federal Emergency Management Agency, Flood Insurance Rate Maps, Community--Panel Numbers 470148B-01-03; Effective Date: July 3, 1986 and any subsequent amendments or revisions, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activity.

(4) Compliance. No structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed

restriction. However, where this ordinance conflicts or overlaps with another, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body, and;
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Benton, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Benton, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #130, Feb. 2001)

**14-204. Administration.** (1) Designation of town recorder. The recorder is hereby appointed to administer and implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the recorder on forms furnished by him prior to any development activity. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities. Specifically, the following information is required:

- (a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings. (See subsection (b) below.)
  - (ii) Elevation in relation to mean sea level to which any nonresidential building will be floodproofed, where base flood elevation data is available. (See subsection (b) below.)

(iii) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the floodproofing criteria in § 14-204(2)(b), where base flood elevation data is available.

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the recorder shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building and the highest adjacent grade. USGS Quadrangle maps may be utilized when no more detailed reference exists to establish reference elevations.

Within all flood zones where base flood elevation data are utilized, the recorder shall require that upon placement of the lowest floor, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the recorder a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by, or under the direct supervision of, a registered land surveyor, professional engineer, or architect and certified by same. When floodproofing is utilized for a particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer, or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The recorder shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the town recorder. Duties of the recorder shall include, but not be limited to:

(a) Review of all development permits to assure that the requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and

submission of evidence of such notification to the Federal Emergency Management Agency.

(d) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with § 14-204(2)(b).

(e) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been floodproofed, in accordance with § 14-204(2)(b).

(f) When floodproofing is utilized, the recorder shall obtain certification from a registered engineer or architect, in accordance with § 14-204(2)(b).

(g) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the recorder shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 14-206.

(h) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the recorder shall obtain, review and reasonably utilize any base flood elevation and floodway data available for a federal, state, or other source, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FHBM or FIRM meet the requirements of this ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the recorder shall require the lowest floor of a building to be elevated or floodproofed to a level of at least two (2) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this chapter). All applicable data including the highest adjacent grade elevation and the elevations of the lowest floor of floodproofing shall be recorded as set forth in § 14-204(b).

(i) All records pertaining to the provisions of this ordinance shall be maintained in the office of the recorder and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

(j) Assure that the flood carrying capacity within an altered or relocated portion of any water course is maintained. (Ord. #130, Feb. 2001)

**14-205. Provisions for flood hazard reduction.** (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and,

(j) Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this ordinance, shall be undertaken only if said nonconformity is not extended.

(2) Standards for unmapped streams. Located within Benton, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor base flood data or floodways have been provided. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream along each side of the stream, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the

proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the locality.

(b) When flood elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-204(2)(b).

(3) **Standards for subdivision proposals.** Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty (50) lots and/or five (5) acres. (Ord. #130, Feb. 2001)

**14-206. Variance procedures.** (1) **Board of floodplain review.**

(a) **Creation and appointment.** A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) **Procedure.** Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the mayor and board of commissioners.

(c) **Appeals: how taken.** An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, or bureau affected by any decision of the recorder based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of

floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of twenty-five dollars (\$25.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The recorder shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the recorder or other administrative official in the carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures.

(A) The Benton Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;



(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon:

(i) A showing of good and sufficient cause,

(ii) A determination that failure to grant the variance would result in exceptional hardship; and

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates from flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The recorder shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. #130, Feb. 2001)

**14-207. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict with this ordinance or any part thereof, and the whole or part of any existing or future ordinance of Benton, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (Ord. #130, Feb. 2001)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. SPEED LIMITS.
3. TURNING MOVEMENTS.
4. STOPPING AND YIELDING.
5. PARKING.
6. ENFORCEMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Authorized emergency vehicles defined.
- 15-103. Operation of authorized emergency vehicles.
- 15-104. Following emergency vehicles.
- 15-105. Running over fire hoses, etc.
- 15-106. Driving on streets closed for repairs, etc.
- 15-107. Reckless driving.
- 15-108. Unlaned streets.
- 15-109. Laned streets.
- 15-110. Yellow lines.
- 15-111. Miscellaneous traffic control signs, etc.
- 15-112. General requirements for traffic control signs, etc.

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#### <sup>1</sup>Municipal code references

- Excavations and cuts: title 16, chapter 2.
- Inoperative vehicles: § 13-108.
- Obstructions in streets, etc.: title 16.

#### <sup>2</sup>State 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, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Unauthorized traffic control signs, etc.
- 15-114. Presumption with respect to traffic control signs, etc.
- 15-115. School safety patrols.
- 15-116. Driving through funerals or other processions.
- 15-117. Damaging pavements.
- 15-118. Clinging to vehicles in motion.
- 15-119. Riding on outside of vehicles.
- 15-120. Backing vehicles.
- 15-121. Projections from the rear of vehicles.
- 15-122. Causing unnecessary noise.
- 15-123. Vehicles and operators to be licensed.
- 15-124. Driver license to be carried and exhibited on demand.
- 15-125. Passing.
- 15-126. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-127. Delivery of vehicle to unlicensed driver, etc.
- 15-128. Compliance with financial responsibility law required.

**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. (1990 Code, § 9-101)

**15-102. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1990 Code, § 9-102)

**15-103. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

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<sup>1</sup>Municipal code reference

Provisions with respect to the operation of other vehicles upon the approach of emergency vehicles: § 15-402

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1990 Code, § 9-103)

**15-104. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park any vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1990 Code, § 9-104)

**15-105. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1990 Code, § 9-105)

**15-106. 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. (1990 Code, § 9-106)

**15-107. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1990 Code, § 9-107)

**15-108. 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.

(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. (1990 Code, § 9-109)

**15-109. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. (1990 Code, § 9-110)

**15-110. 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. (1990 Code, § 9-111)

**15-111. Miscellaneous traffic control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1990 Code, § 9-112)

**15-112. 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,<sup>2</sup> and shall be uniform as to type and location throughout the city. (1990 Code, § 9-113, modified)

**15-113. Unauthorized traffic control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign,

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<sup>1</sup>Municipal code reference

See also §§ 15-404--15-407.

<sup>2</sup>For 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.

signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal. (1990 Code, § 9-114)

**15-114. Presumption with respect to traffic control signs, etc.** When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1990 Code, § 9-115)

**15-115. 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. (1990 Code, § 9-116)

**15-116. 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. (1990 Code, § 9-117)

**15-117. Damaging pavements.** No person shall operate or cause to be operated upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1990 Code, § 9-118)

**15-118. 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. (1990 Code, § 9-119)

**15-119. 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. (1990 Code, § 9-120)

**15-120. 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. (1990 Code, § 9-121)

**15-121. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1990 Code, § 9-122)

**15-122. Causing unnecessary noise.**<sup>1</sup> It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1990 Code, § 9-123)

**15-123. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1990 Code, § 9-124)

**15-124. Driver license to be carried and exhibited on demand.** Every licensee shall have his operator or chauffeur license in his immediate possession at all times when operating a motor vehicle on any alley, street, or highway while within the Town of Benton, Tennessee, and shall display the same upon demand of a peace officer of the Town of Benton, Tennessee; provided, however, that it shall be unlawful for any officer to demand the exhibition of said license unless the operator of said motor vehicle is or immediately prior to such demand was engaged in a violation of any municipal ordinance or statute of state law. (1990 Code, § 9-125)

**15-125. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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<sup>1</sup>Municipal code reference

Offenses against the peace and quiet: title 11, chapter 5.



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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1990 Code, § 9-126)

**15-126. 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, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

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

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

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

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

(7) 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, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1990 Code, § 9-127)

**15-127. Delivery of vehicle to unlicensed driver, etc.**

(1) Definitions. (a) "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.

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

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

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

(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 Benton unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town. (1990 Code, § 9-128)

**15-128. Compliance with financial responsibility law required.**

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision of title 15 of the this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106 the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

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

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

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

(4) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50).

(5) The civil offense imposed by this section shall be in addition to any other penalty imposed under this code of ordinances.

(6) On or before the court date, the person so charged may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (Ord. #134, Feb. 2002)

## CHAPTER 2

### SPEED LIMITS

#### SECTION

- 15-201. In general.
- 15-202. At intersections.
- 15-203. In school zones.
- 15-204. In congested areas.

**15-201. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1990 Code, § 9-201)

**15-202. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1990 Code, § 9-202)

**15-203. In school zones.** Generally, pursuant to Tennessee Code Annotated, § 55-8-152, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph. Speed limits enacted pursuant to this paragraph shall not apply at school entrances and exits to and from controlled access highways on the system of state highways.

When the 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. (1990 Code, § 9-203, modified)

**15-204. In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the town. (1990 Code, § 9-204)

## CHAPTER 3

### TURNING MOVEMENTS

#### SECTION

15-301. Generally.

15-302. Right turns.

15-303. Left turns on two-way roadways.

15-304. Left turns on other than two-way roadways.

15-305. U-turns.

**15-301. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1990 Code, § 9-301)

**15-302. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1990 Code, § 9-302)

**15-303. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1990 Code, § 15-303)

**15-304. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one 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. (1990 Code, § 9-304)

**15-305. U-turns.** U-turns are prohibited. (1990 Code, § 9-305)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 4

**STOPPING AND YIELDING****SECTION**

- 15-401. Upon approach of authorized emergency vehicles.
- 15-402. When emerging from alleys, etc.
- 15-403. To prevent obstructing an intersection.
- 15-404. At "stop" signs.
- 15-405. At "yield" signs.
- 15-406. At traffic control signals generally.
- 15-407. At flashing traffic control signals.
- 15-408. Stops to be signaled.

**15-401. Upon approach of authorized emergency vehicles.** Upon the immediate approach of an authorized emergency vehicle<sup>1</sup> making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1990 Code, § 9-401)

**15-402. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1990 Code, § 9-402)

**15-403. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (1990 Code, § 9-403)

**15-404. 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

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<sup>1</sup>Municipal code references

Authorized emergency vehicles defined: § 15-102.

Operation of authorized emergency vehicles: § 15-103.

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. (1990 Code, § 9-404)

**15-405. 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. (1990 Code, § 9-405)

**15-406. 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.

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that 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.

(4) Steady red with green arrow:



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

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made a vehicle length short of the signal. (1990 Code, § 9-406)

**15-407. At flashing traffic control signals.** Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town, it shall require obedience by vehicular traffic as follows:

(1) 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 there is no crosswalk or limit line, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) 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. (1990 Code, § 9-407)

**15-408. 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,<sup>1</sup> except in an emergency. (1990 Code, § 9-408)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### PARKING

#### SECTION

- 15-501. Generally.
- 15-502. Angle parking.
- 15-503. Occupancy of more than one space.
- 15-504. Where prohibited.
- 15-505. Loading and unloading zones.
- 15-506. Presumption with respect to illegal parking.

**15-501. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the Town of Benton shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1990 Code, § 9-501)

**15-502. Angle parking.** On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1990 Code, § 9-502)

**9-503. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one 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. (1990 Code, § 9-503)

**15-504. 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.
- (2) In front of a public or private driveway.

- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within twenty (20) feet 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 (75) feet of the entrance.
- (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (9) Upon any bridge.
- (10) Alongside any curb painted yellow or red by the town.
- (11) 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). (1990 Code, § 9-504)

**15-505. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1990 Code, § 9-505)

**15-506. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1990 Code, § 9-506)

**CHAPTER 6****ENFORCEMENT****SECTION**

- 15-601. Issuance of traffic citations.
- 15-602. Failure to obey citation.
- 15-603. Illegal parking.
- 15-604. Impoundment of vehicles.
- 15-605. Disposal of abandoned motor vehicles.
- 15-606. Deposit of driver license in lieu of bail.
- 15-607. Violation and penalty.

**15-601. Issuance of traffic citations.**<sup>1</sup> 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. (1990 Code, § 9-601)

**15-602. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1990 Code, § 9-602)

**15-603. 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. (1990 Code, § 9-603, modified)

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

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

**15-604. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. (1990 Code, § 9-604, modified)

**15-605. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1990 Code, § 9-605)

**15-606. Deposit of driver's license in lieu of bail.** (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

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

provisions of Tennessee Code Annotated, § 55-50-801, et seq. (1990 Code, § 9-606, modified)

**15-607. Violation 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 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 town 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).

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 16-101. Trees projecting over streets, etc., regulated.
- 16-102. Trees, etc., obstructing view at intersections prohibited.
- 16-103. Projecting signs and awnings, etc., restricted.
- 16-104. Banners and signs across streets and alleys restricted.
- 16-105. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-106. Littering streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Abutting occupants to keep sidewalks clean, etc.
- 16-109. Parades, etc., regulated.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.

**16-101. 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 (14) feet or over any sidewalk at a height of less than eight (8) feet. (1990 Code, § 12-101)

**16-102. 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. (1990 Code, § 12-102)

**16-103. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

shall be erected subject to the requirements of the building code. (1990 Code, § 12-103)

**16-104. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of commissioners after a finding that no hazard will be created by such banner or sign. (1990 Code, § 12-104)

**16-105. 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. (1990 Code, § 12-105)

**16-106. 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. (1990 Code, § 12-106)

**16-107. 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. (1990 Code, § 12-107)

**16-108. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1990 Code, § 12-108)

**16-109. 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 recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1990 Code, § 12-109)

**16-110. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as 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. (1990 Code, § 12-110)

**16-111. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1990 Code, § 12-111)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts and driveways.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1990 Code, § 12-201)

**16-202. Applications.** Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

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<sup>1</sup>State law reference

§§ 16-201 through 16-209 in this chapter were patterned substantially after the ordinance upheld by the Tennessee Supreme Court in City of Paris, Tennessee V. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1990 Code, § 12-202)

**16-203. Fee.** The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1990 Code, § 12-203)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1990 Code, § 12-204)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1990 Code, § 12-205)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the Town of Benton shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others

that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1990 Code, § 12-206)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$250,000.00 for each person and \$600,000.00 for each accident, and for property damages not less than \$85,000.00 for any one (1) accident. (1990 Code, § 12-207, modified)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1990 Code, § 12-208)

**16-209. Supervision.** The street superintendent shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1990 Code, § 12-209)

**16-210. Driveway curb cuts and driveways.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall

exceed thirty-five (35) feet in width at its outer or street edge, and when two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided to separate said driveways. Driveway aprons shall not extend into the street.

No one shall build or maintain a driveway that intersects with a town street, alley, or other public place without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway approach shall be permitted to encompass any municipal or other public facilities. Under the permit provided for herein the applicant may be authorized to relocate any such utility upon application to the subject utility provider and upon making suitable arrangements for financial reimbursements to the provider. No driveway approach shall be permitted within twenty-five (25) feet of the right-of-way of the intersecting street, and no more than one driveway approach shall be permitted per lot when the lot is seventy-five (75) feet or less in width fronting on any street. All new constructions or replacement of driveway drainage culverts shall have minimum dimensions of 15 inches in diameter for metal corrugated pipe or 12 inches in diameter for concrete pipe, and twenty (20) feet in length, and shall be constructed in a manner not to impede adequate drainage along the road right-of-way. (1990 Code, § 12-210)

## TITLE 17

### REFUSE AND TRASH DISPOSAL<sup>1</sup>

#### 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.

**17-101. 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. (1990 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. (1990 Code, § 8-202)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Benton 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 the town handles mechanically. Furthermore, except for containers which the town handles mechanically, the combined weight of any refuse container and its

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

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. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1990 Code, § 8-203)

**17-104. Location of containers.** Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there 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. (1990 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. (1990 Code, § 8-205)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of commissioners shall designate. Collections shall be made regularly in accordance with an announced schedule. (1990 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. (1990 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 board of commissioners, is expressly prohibited. (1990 Code, § 8-208)

**TITLE 18****WATER AND SEWERS<sup>1</sup>****CHAPTER**

1. WATER.
2. SEWER.
3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. FAT, OIL, AND GREASE.
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

**CHAPTER 1****WATER****SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Water main extensions.
- 18-108. Variances from and effect of preceding section as to extensions.
- 18-109. Meters.
- 18-110. Meter tests.
- 18-111. Schedule of rates.
- 18-112. Multiple services through a single meter.
- 18-113. Billing.
- 18-114. Discontinuance or refusal of service.
- 18-115. Re-connection charge.
- 18-116. Termination of service by customer.
- 18-117. Access to customers' premises.
- 13-118. Inspections.
- 18-119. Customer's responsibility for system's property.
- 18-120. Customer's responsibility for violations.
- 18-121. Supply and resale of water.
- 18-122. Unauthorized use of or interference with water supply.
- 18-123. Limited use of unmetered private fire line.

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<sup>1</sup>Municipal code references  
Refuse disposal: title 17.



- 18-124. Damages to property due to water pressure.
- 18-125. Liability for cutoff failures.
- 18-126. Restricted use of water.
- 18-127. Interruption of service.

**18-101. Application and scope.** The provisions of this chapter are a part of all contracts for receiving water service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1990 Code, § 13-101)

**18-102. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water service from the town under either an express or implied contract.

(2) "Service line" shall consist of the pipe line extending from any water main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(3) "Discount date" shall mean the 27th day of each month, except when some other date is provided by contract. The discount date is the last date upon which water bills can be paid at net rates.

(4) "Dwelling" means any single residential unit or house occupied for residential purposes. Each separate apartment unit, duplex unit or other multiple dwelling unit shall be considered a separate dwelling.

(5) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1990 Code, § 13-102, modified)

**18-103. Obtaining service.** A request for either original or additional service must be made and be approved by the town before connection or meter installation orders will be issued and work performed. (1990 Code, § 13-103)

**18-104. Application and contract for service.** Each prospective customer desiring water service will be required to request service and pay a \$25.00 deposit before service is supplied. If, for any reason, a customer, after requesting service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant. (1990 Code, § 13-104)

**18-105. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water service. (1990 Code, § 13-105)

**18-106. Connection charges.** Service lines will be laid by the town from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

Before a new water service line will be laid by the town, the applicant shall make a deposit equal to the estimated cost of the installation.

This deposit shall be used to pay the cost of laying such new service line and appurtenant equipment. If such cost exceeds the amount of the deposit, the applicant shall pay to the town the amount of such excess cost when billed therefor. If such cost is less than the amount of the deposit, the amount by which the deposit exceeds such cost shall be refunded to the applicant.

When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. (1990 Code, § 13-106)

**18-107. Water main extensions.** Persons desiring water main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the board of commissioners), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances. Cement-lined cast iron pipe (or other construction approved by the board of commissioners) two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines.

All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the town in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the town, such water mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water system and shall furnish water service

therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1990 Code, § 13-107)

**18-108. Variances from and effect of preceding section as to extensions.** Whenever the board of commissioners is of the opinion that it is to the best interest of the town and its inhabitants to construct a water main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of commissioners.

The authority to make water main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. (1990 Code, § 13-108)

**18-109. Meters.** All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1990 Code, § 13-109)

**18-110. Meter tests.** The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount of ten dollars (\$10.00).

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1990 Code, § 13-110)

**18-111. Schedule of rates.** All water and sewer service shall be furnished under such rate schedules as the town may from time to time adopt by appropriate ordinance or resolution.<sup>1</sup> (1990 Code, § 13-111)

**18-112. Multiple services through a single meter.** No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1990 Code, § 13-112)

**18-113. Billing.** Bills for residential water service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the town.

Water bills must be paid on or before the discount date shown thereon to obtain the net rate; otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The town shall not be liable for any damages resulting from discontinuing service under the provisions of this section even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the town if the envelope is date-stamped on or before the final date for payment of the net amount.

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<sup>1</sup>Administrative ordinances and resolutions are of record in the office of the recorder.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (1990 Code, § 13-113)

**18-114. Discontinuance or refusal of service.** The town shall have the right to discontinue water service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

No service shall be discontinued unless the customer is given reasonable notice in advance of such impending action and the reason therefor. The customer shall also be notified of his right to a hearing prior to such disconnection if he disputes the reason therefor and requests such hearing by the date specified in the notice. When a hearing is requested, the customer shall have the right to have a representative at such hearing and shall be entitled to testify and to present witnesses on his behalf. Also, when such hearing has been requested, the customer's service shall not be terminated until a final decision is reached by the hearing officer and the customer is notified of that decision. (1990 Code, § 13-114)

**18-115. Re-connection charge.** Whenever service has been discontinued as provided for above, a re-connection charge of twenty-five dollars (\$25.00) shall be collected by the town before service is restored. For the second and third re-connections, a charge of thirty dollars (\$30.00) and one hundred dollars (\$100) respectively shall be made. After a customer's water has been cut off as provided above for three times, he may no longer receive water service from the town. (1990 Code, § 13-115)

**18-116. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to disconnect service must give at least three (3) days notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1990 Code, § 13-116)

**18-117. Access to customers' premises.** The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1990 Code, § 13-117)

**18-118. Inspections.** The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1990 Code, § 13-118)

**18-119. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost

of necessary repairs or replacements shall be paid by the customer. (1990 Code, § 13-119)

**18-120. Customer's responsibility for violations.** Where the town furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1990 Code, § 13-120)

**18-121. Supply and resale of water.** All water shall be supplied within the town exclusively by the town, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the town. (1990 Code, § 13-121)

**18-122. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1990 Code, § 13-122)

**18-123. Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1990 Code, § 13-123)

**18-124. Damages to property due to water pressure.** The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1990 Code, § 13-124)

**18-125. Liability for cutoff failures.** The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

- (1) After receipt of at least ten (10) days' written notice to cut off a water service, the town has failed to cut off such service.
- (2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained after his water service has been cut off. (1990 Code, § 13-125)

**18-126. Restricted use of water.** In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1990 Code, § 13-126)

**18-127. Interruption of service.** The town will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1990 Code, § 13-127)



**CHAPTER 2****SEWER<sup>1</sup>****SECTION**

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Abbreviations.
- 18-204. Prohibited activities.
- 18-205. Required connections.
- 18-206. Private wastewater disposal--general regulations.
- 18-207. Private wastewater disposal--permit required.
- 18-208. Building sewers and connections--general regulations.
- 18-209. Building sewers and connections--permit required.
- 18-210. Installation of building sewers.
- 18-211. General discharge prohibitions.
- 18-212. Federal categorical pretreatment standards.
- 18-213. Modification of federal categorical pretreatment standards.
- 18-214. State requirements.
- 18-215. Town's right of revision.
- 18-216. Excessive discharge.
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- 18-219. Charges and fees.
- 18-220. Schedule of fees and charges.
- 18-221. Wastewater dischargers.
- 18-222. Wastewater discharge permits.
- 18-223. Permit application.
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- 18-225. Permit conditions.
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- 18-228. Reporting requirements for permittee.
- 18-229. Periodic compliance reports.
- 18-230. Monitoring facilities.
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- 18-232. Pretreatment.
- 18-233. Confidential information.
- 18-234. Enforcement--harmful contributions.
- 18-235. Revocation of permit.

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<sup>1</sup>Municipal code reference

Sewage and human excreta disposal: title 18, chapter 3.

- 18-236. Notification of violation.
- 18-237. Show cause hearing.
- 18-238. Legal action.
- 18-239. Civil penalties.
- 18-240. Falsifying information.
- 18-241. Severability.
- 18-242. Conflict.

**18-201. Purpose and policy.** (1) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Benton, Tennessee, and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this chapter are:

- (a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- (d) To provide for equitable distribution of the cost of the municipal wastewater system.

(2) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(3) This chapter shall apply to the Town of Benton, Tennessee, and to persons outside the town who are, by contract or agreement with the town, users of the town POTW. Except as otherwise provided herein, the superintendent of the town POTW shall administer, implement, and enforce the provisions of this chapter. (1990 Code, § 13-201.01)

**18-202. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

- (1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq.

(2) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter [mg/l]).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." National Categorical Pretreatment Standards or pretreatment standard.

(7) "Cooling water." The water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(8) "Compatible pollutant." This shall mean biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the publicly owned treatment works' NPDES permit, for which the publicly owned treatment works is designed to treat such pollutants and in fact does remove such pollutants to a substantial degree.

(9) "Control authority." The term "control authority" shall refer to the a "approval authority," defined hereinabove; or the superintendent if the town has an approved pretreatment program under the provisions of 40 CFR 403.11.

(10) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(11) "Environmental Protection Agency (EPA)." The U.S. EPA, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

(12) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(13) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(14) "Indirect discharge." The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC 1317) into the POTW (including holding tank waste discharged into the system).

(15) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 USC 1342).

(16) "Industrial wastes." The liquid wastes from industrial manufacturing processes, trades, or businesses, as distinct from sanitary sewage.

(17) "Interference." The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the town's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(18) "National Categorical Pretreatment Standard" or "pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users.

(19) "National prohibitive discharge standard" or "prohibitive discharge standard." Any regulation developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

(20) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 USC 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred and twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred and twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(21) "National Pollution Discharge Elimination System" or "NPDES permit." A permit issued pursuant to section 402 of the Act (33 USC 1342).

(22) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(23) "pH." The logarithm (Base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(24) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(25) "Pollutant." Any dredged spill, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(26) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes by other means, except as prohibited by 40 CFR section 403.6(d).

(27) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(28) "Publicly owned treatment works (POTW)." A treatment works as defined by section 212 of the Act (33 USC 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the town, who are, by contract or agreement with the town, users of the town's POTW.

(29) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(30) "Service area." Those areas to which the Town of Benton provides sewer service.

(31) "Shall" is mandatory: "May" is permissive.

(32) "Significant industrial user." Any industrial user of the town's wastewater disposal system who:

(a) Has a discharge flow of 25,000 gallons or more per average work day, or

(b) Has a flow greater than five percent (5%) of the flow in the town's wastewater treatment system, or

(c) Has in his wastes toxic pollutants as defined pursuant to section 307 of the Act of Tennessee statues and rules or

(d) Is found by the town, Tennessee Department of Health and Environment (TDHE) or EPA to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(33) "Slug." Any discharge of water, sewage, or industrial waste that, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping station.

(34) "State." State of Tennessee.

(35) "Standard industrial classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(36) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(37) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(38) "Superintendent." The person designated by the town to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(39) "Town." The Town of Benton, Tennessee, or the town council or mayor and councilmen.

(40) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of CWA 307(a) or other acts.

(41) "Twenty-four-hour flow proportional composite sample." A sample consisting of several effluent portions collected during a twenty-four (24) hour period in which the portions of a sample are proportionate to the flow and combined to form a representative sample.

(42) "User." Any person who contributes, causes, or permits the contribution of wastewater into the town's POTW.

(43) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with such ground, surface, and storm waters as may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

(44) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(45) "Wastewater permit." As set forth in § 18-209 of this chapter. (1990 Code, § 13-201.02)

**18-203. Abbreviations.** The following abbreviations shall have the designated meanings:

- (1) BOD -- Biochemical Oxygen Deman
- (2) CFR -- Code of Federal Regulations
- (3) COD -- Chemical Oxygen Demand
- (4) EPA -- Environmental Protection Agency
- (5) l -- Liter
- (6) mg -- Milligrams
- (7) mg/l -- Milligrams per liter
- (8) NPDES -- National Pollutant Discharge Elimination System
- (9) POTW -- Publicly Owned Treatment Works
- (10) SIC -- Standard Industrial Classification
- (11) SWDA -- Solid Waste Disposal Act, 42 USC 6901, et seq.
- (12) USC -- United States Code
- (13) TSS -- Total Suspended Solids. (1990 Code, § 13-201.03)

**18-204. Prohibited activities.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the Town of Benton, or in any area under the jurisdiction of said town, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet or watercourse within the Town of Benton, or in any area under the jurisdiction of said town, any wastewater or other polluted waters, except where suitable treatment has been provided and a NPDES permit has been issued.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. (1990 Code, § 13-202.01)

**18-205. Required connections.** (1) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the town or within the town's sewer service area and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sewer of the town, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after the date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line inside the town or within four hundred (400) feet of the property line outside the town.

(2) The council of mayor and councilmen may, by majority vote, at a regular meeting, waive the above requirement. The requirement shall only be waived after the property owner shall make application on a form furnished by the town, at least ten (10) days prior to the regular commission meeting. No

application shall be considered by the council of mayor and councilmen without compliance with the following provisions:

- (a) The lot area shall contain a minimum of 20,000 square feet.
  - (b) The private disposal system shall comply with all applicable state and county laws and regulations.
  - (c) A visual inspection of the site shows no evidence of a past or present health menace or nuisance.
- (3) The council of mayor and councilmen reserves the right to revoke any waiver so granted at any time and to require the property owner to comply with this chapter as though no waiver had ever been granted. (1990 Code, § 13-202.02, as amended by Ord. #131, Feb. 2001)

**18-206. Private wastewater disposal—general regulations.**

- (1) Where a public sewer is not available under the provisions of § 18-205, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this chapter.
- (2) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in § 18-205, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and filled with suitable material.
- (3) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all regulations of the TDHE. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- (4) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.
- (5) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the county health officer. (1990 Code, § 13-203.01)

**18-207. Private wastewater disposal—permit required.** (1) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the superintendent, or other duly authorized representative of the Town of Benton. However, no permit shall be required until public sewers are constructed and operating in the general area of construction.

- (2) The application for such permit shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee of twenty dollars (\$20.00) shall be paid to the town clerk at the time the application is filed.
- (3) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of



construction. The applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection will be made within forty-eight (48) hours of the receipt of notice by the superintendent, excluding weekends and holidays.

(4) No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than ten thousand (10,000) square feet. (1990 Code, § 13-203.02)

**18-208. Building sewers and connections--general regulations.**

(1) A separate and independent building sewer shall be provided for every building. Except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(2) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

(3) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

(4) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(5) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town. (1990 Code, § 13-204.01)

**18-209. Building sewers and connections--permit required.** (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit signed by the superintendent, or other duly authorized representative of the Town of Benton.

(2) The owner or his agent shall make application for a building sewer permit on a form furnished by the town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee for the building sewer permit shall be paid to the town clerk at the time the application is filed. The permit and inspection fee shall be listed in § 18-220 of this chapter. A connection fee (tapping fee) shall be paid to the town clerk

before the building sewer is connected to the public sewer. This fee shall be in accordance with those in § 18-220 of this chapter.

(3) A permit for connection to a public sewer shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or a representative duly authorized by him or by the board of mayor and commissioners. (1990 Code, § 13-204.02)

**18-210. Installation of building sewers.** (1) The building sewer shall be cast iron soil pipe, ASTM specification A74, latest revision, or equal; extra strength vitrified clay sewer pipe, ASTM specification C700, latest revision; concrete sewer pipe, ASTM specification C14, latest revision; or PVC sewer pipe, ASTM specification D3033 or D3034, latest revision. Joints shall be tight and waterproof and shall conform to applicable specification under section 4.03(e). Any part of the building sewer that is located within ten (10) feet of a water service pipe shall be constructed of cast iron pipe with bolted mechanical joints. Cast iron pipe with bolted mechanical joints may also be required by the superintendent where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the superintendent.

(2) The size and slope of the building sewer shall be subject to the approval of the superintendent, but in no even shall the diameter be less than four (4) inches. The slope of such four (4) inch pipe shall be not less than one-eighth (1/8) inch per foot.

(3) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Building sewers shall not be placed in the same trench with water service lines.

(4) All excavation required for the installation of a building sewer shall be open trench work unless otherwise approved by the superintendent. Pipe laying and backfill shall be performed in accordance with ASTM Specification C12, latest revision, except that no backfill shall be placed until the work has been inspected and approved by the superintendent or his authorized representative.

(5) All joints and connections shall be made gastight and watertight. No paint, varnish, or other coatings shall be permitted on the jointing material

until after the joint has been tested and approved. Joints shall conform to the following requirements:

(a) Cast iron soil pipe shall have push-on joints with neoprene gaskets. Neoprene gaskets shall be in accordance with the requirements of ASTM specification C564, latest revision.

(b) All joints in vitrified clay pipe or between such pipe and metals shall be factory-fabricated jointing connections. These connections shall be of the compression type positive friction joints in accordance with latest requirements of ASTM Specification C425, latest revision. Lubrication shall be used as recommended by the manufacturer. The joint material shall be bonded to the pipe at the factory.

(c) PVC pipe joint shall be either of the bell and spigot type or of the solvent cemented type as follows:

(i) If the bell and spigot type joints are used, these joints shall be sealed with a rubber "O" ring gasket, and shall be of a composition and texture which is resistant to common ingredients of sewage, industrial wastes, including oils and ground water, and which will endure permanently under the conditions likely to be imposed by this use. Installation of gasket shall be done in accordance with the pipe manufacturer's instructions using all the necessary materials, lubricants, and equipment recommended by the manufacturer.

(ii) If the solvent cemented type joint is used, only the proper cement, bearing the NSF Seal of Approval, recommended for the particular materials shall be used. All pipe cuts shall be square, and both pipe and fittings shall be cleaned of all soil, dirt, oil, and grease. Solvent joints shall be made according to the recommendations of the manufacturer and/or the Plastic Pipe Institute. Joints shall be allowed to dry before testing. Should any leak occur on water test, the defective joint shall be replaced.

(d) Concrete sewer pipe joints shall be of the "O" ring rubber gasket type conforming to ASTM Specification C302, latest revision.

(e) Other jointing materials and methods may be used only by approval of the superintendent.

(6) The connection of the building sewer into the public sewer shall be made at a stub-up or "Y" branch, if such fitting is available at a suitable location. If the public sewer is twelve (12) inches in diameter or less, and no properly located stub-up or "Y" branch is available, the town shall, at the expense of the owner, cut a neat hold into the public sewer, with entry in the downstream direction at an angle of about forty-five (45) degrees, and install a forty-five (45) degree ell with the spigot and cut so as not to extend past the inner subsurface of the public sewer. The invert of the building sewer at the point of connection shall be at an elevation of at least 0.1 foot above the invert of the public sewer. A smooth, neat joint shall be made, and the connection

made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the superintendent. (1990 Code, § 13-204.03)

**18-211. General discharge prohibitions.** No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(1) Any waters or wastes containing the specific substances listed below in concentrations such that the concentration of such substance in the composite sewage received at the sewage treatment plant exceeds the specific limits established as follows:

Pollutant	Selected Protection Criteria (mg/l)
Arsenic	0.100
Boron - Total	10
Cadmium - Total	0.033
Chromium - Total	0.375
Copper - Total	0.500
Cyanide	0.605
Lead	0.250
Manganese	10.0
Nickel	0.273
Mercury	0.004
Silver	0.029
Zinc	1.053
BOD	300
TSS	300
Oil and Grease	80

(2) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five (five ) percent nor any single reading over ten (10) percent of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides

and any other substances which the town, the state, or EPA has notified the user is a fire hazard or a hazard to the system.

(3) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half (½) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(4) Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(5) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(6) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(7) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(8) Any substance which will cause the POTW to violate its NPDES and/or the receiving water quality standards.

(9) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(10) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit).

(11) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(12) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the town in compliance with applicable state or federal regulations.

(13) Any wastewater which causes a hazard to human life or creates a public nuisance.

(14) Discharge of holding tank wastes. No person shall discharge into the POTW holding tank waste from any vehicle except under the following conditions:

(a) No waste other than waste from domestic holding tanks shall be allowed. Wastes from non-domestic holding tanks and chemical toilets shall be prohibited.

(b) All domestic holding tank waste shall be discharged at the Benton Wastewater Treatment Plant under the supervision of the operator on duty.

(c) Prior to discharging the waste, the driver of the waste-hauling vehicle shall complete and sign a form providing the name and address of the individual or company responsible for the waste, the name of the driver, the date and time of discharge, the name and address of the owner of the premises where the waste was collected, and a description of the waste.

(d) A fee, which may be billed monthly, as set forth in § 18-220 of this chapter.

(15) Storm water, ground water, rain water, street drainage, roof runoff, basement drainage, or unpolluted yard drainage shall not be discharged through direct or indirect connections to a sanitary sewer.

When the town determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the superintendent shall

(a) Advise the user(s) of the impact of the contribution on the POTW and

(b) Develop effluent limitation(s) for such user to correct the interference with the POTW. (1990 Code, § 13-205.01)

**18-212. Federal categorical pretreatment standards.** Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately

supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12. (1990 Code, § 13-205.02)

**18-213. Modification of federal categorical pretreatment standards.** Where the town's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the town may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system ninety-five (95) percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) of title 40 of the CFR, part 403 -- "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The town may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, part 403, section 403.7, are fulfilled and prior approval from the approval authority is obtained. (1990 Code, § 13-205.03)

**18-214. State requirements.** State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations of those in this chapter. (1990 Code, § 13-205.04)

**18-215. Town's right of revision.** The town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 18-204 of this chapter. (1990 Code, § 13-205.05)

**18-216. Excessive discharge.** No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the town or state.<sup>1</sup> (1990 Code, § 13-205.6)

**18-217. Accidental discharges.** (1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide

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<sup>1</sup>Dilution may be acceptable means of complying with some of the prohibitions set forth in § 2.1, e.g., the pH prohibition.

this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(2) Written notice. Within five days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(3) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1990 Code, § 13-205.07)

**18-218. Fees--purpose.** It is the purpose of this chapter to provide for the recovery of costs from users of the town's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the town's schedule of charges and fees. (1990 Code, § 13-206.01)

**18-219. Charges and fees.** The town may adopt charges and fees that may include:

- (1) Fees for reimbursement of costs of setting up and operating the town's pretreatment program.
- (2) Fees for monitoring, inspections, and surveillance procedures.
- (3) Fees for reviewing accidental discharge procedures and construction.
- (4) Fees for permit applications.
- (5) Fees for filing appeals.
- (6) Fees for consistent removal (by the town) of pollutants otherwise subject to federal pretreatment standards.
- (7) Other fees as the town may deem necessary to carry out the requirements contained herein.



These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the town. (1990 Code, § 13-206.02)

**18-220. Schedule of fees and charges.** (1) Sewer Service Charges.

- (a) Minimum Charge for First 2,000 Gallons, \$5.80
- (b) All Consumption Over 2,000 Gallons, \$2.90/1,000 gallons

(2) Surcharges for Excessive Loadings. (a) BOD = \$50/1,000 pounds BOD in excess of 300 mg/l BOD.

- (b) Suspended Solids (SS) = \$50/1,000 pounds SS in excess of 400 mg/l SS.

(3) Industrial User Permit Fees. \$10 per application.

(4) Building Sewer Fee.

Permit and Inspection Fees	\$20/Connection
Residential Connection Fee	\$250/Connection
Commercial Connection Fee	\$500/Connection
Public Connection Fee	\$500/Connection
Industrial Connection Fee	\$1,000 Connection

(5) Septic Tank Disposal Fee.

From Inside Town Limits	\$20/1,000 gallons
From Outside Town Limits	\$30/1,000 gallons

(1990 Code, title 13, chapter 2, appendix A)

**18-221. Wastewater dischargers.** It shall be unlawful to discharge without a wastewater permit to any natural outlet within the Town of Benton, Tennessee, or in any area under the jurisdiction of Benton and/or to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter. (1990 Code, § 13-207.01)

**18-222. Wastewater discharge permits.** Requirements of industrial users--all significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. (1990 Code, § 13-207.02)

**18-223. Permit application.** Users required to obtain a wastewater discharge permit shall complete and file with the town, an application in the form prescribed by the town, and accompanied by a fee of ten dollars (\$10.00). Proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

(3) Wastewater constituents and characteristics including but not limited to those mentioned in §§ 18-211--18-217 of this chapter as determined

by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, part 136, as amended.

(4) Time and duration of contribution.

(5) Average daily and thirty (30) minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.

(6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation.

(7) Description of activities, facilities, and plant processes on the premises, including all materials that are or could be discharged.

(8) Where known, the nature and concentration of any pollutants in the discharge that are limited by any town, state, or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(b) No increment referred to in subsection (a) shall exceed nine (9) months.

(c) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent, including, as a minimum, whether or not it complied with the increment of progress to be met on such data and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(10) Each product produced by type, amount, process, or processes and rate of production.

(11) Type and amount of raw materials processed (average and maximum per day).

(12) Number and type of employees and hours of operation of plant and proposed actual hours of operation of pretreatment system.

(13) Any other information as may be deemed by the town to be necessary to evaluate the permit application.

The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater permit subject to terms and conditions provided herein. (1990 Code, § 13-207.03)

**18-224. Permit modifications.** Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for an industrial wastewater permit as required by § 18-223, the user shall apply for a wastewater discharge permit within one hundred and eighty (180) days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing industrial wastewater discharge permit shall submit to the superintendent within one hundred and eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 18-223. (1990 Code, § 13-207.04)

**18-225. Permit conditions.** Industrial wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the town. Permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.

(2) Limits on the average and maximum wastewater constituents and characteristics.

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

(4) Requirements for installation and maintenance of inspection and sampling facilities.

(5) Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule.

(6) Compliance schedules.

(7) Requirements for submission of technical reports or discharge reports.

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, the affording town access thereto.

(9) Requirements for notification of the town or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(10) Requirements for notification of slug discharge.

(11) Other conditions as deemed appropriate by the town to ensure compliance with this chapter. (1990 Code, § 13-207.5)

**18-226. Permits duration.** Wastewater discharge permits shall be issued for a specified time period not to exceed five (5) optional years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in §§ 18-211--18-217 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (1990 Code, § 13-207.06)

**18-227. Permit transfer.** Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (1990 Code, § 13-207.07)

**18-228. Reporting requirements for permittee.** Compliance date report--within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process that are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility that are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative

of the industrial user and certified to by a qualified professional. (1990 Code, § 13-207.08)

**18-229. Periodic compliance reports.** (1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent that are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows that during the reporting period exceeded the average daily flow reported. At the discretion of the superintendent and in consideration of such factors as local high or low rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(2) The superintendent may impose mass limitations on users that are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein that are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR, part 136, and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator.<sup>1</sup> (1990 Code, § 13-207.09)

**18-230. Monitoring facilities.** The town shall require to be provided and operated at the user's own expense monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's

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<sup>1</sup>Where 40 CFR, part 136, does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.

premises, but the town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the town. (1990 Code, § 13-207.10)

**18-231. Inspection and sampling.** The town shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority, and (where the NPDES state is the approval authority). EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force, which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (1990 Code, § 13-207.11)

**18-232. Pretreatment.** Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the town shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be acceptable to the town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall

be reported to and be acceptable to the town prior to the user's initiation of the changes.

The town shall annually publish in the Polk County News a list of the users that were not in compliance with any pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the users during the same twelve (12) months.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. (1990 Code, § 13-207.12)

**18-233. Confidential information.** Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the NPDES permit, state disposal system permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the town as confidential shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten (10) day notification is given to the user. (1990 Code, § 13-207.13)

**18-234. Enforcement--harmful contributions.** The town may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, or causes the town to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The town

shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within fifteen (15) days of the date of occurrence. (1990 Code, § 13-208.01)

**18-235. Revocation of permit.** Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of §§ 18-234 through 18-238 of this chapter:

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge.
- (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics.
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
- (4) Violation of conditions of the permit. (1990 Code, § 13-208.02)

**18-236. Notification of violation.** Whenever the town finds that any user has violated or is violating this chapter, wastewater contribution permit, or any prohibition, limitation of requirements contained herein, the town may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user. (1990 Code, § 13-208.03)

**18-237. Show cause hearing.** The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the town council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the town council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the town why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The town may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the town to:

- (1) Issue in the name of the town notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
- (2) Take the evidence.



(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the town for action thereon.

At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

After the town council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances shall have been installed on existing treatment facilities, devices, or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. (1990 Code, § 208.04)

**18-238. Legal action.** If any person discharges sewage, industrial wastes, or other wastes into the town's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the town, the town attorney may commence an action for appropriate legal and/or equitable relief in the circuit court of this county. (1990 Code, § 13-208.05)

**18-239. Civil penalties.** Any user who is found to have violated an order of the town council or who willfully or negligently failed to comply with any provision of this chapter, and the orders, rules, regulations, and permits issued hereunder, shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorneys' fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (1990 Code, § 13-209.01)

**18-240. Falsifying information.** Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six (6) months, or by both. (1990 Code, § 13-209.02)

**18-241. Severability.** If any provision, paragraph, word, section, or subsection of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect. (1990 Code, § 13-210)

**18-242. Conflict.** All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. (1990 Code, § 13-211)

**CHAPTER 3****SEWAGE AND HUMAN EXCRETA DISPOSAL**<sup>1</sup>**SECTION**

- 18-301. Definitions.
- 18-302. Places required to have sanitary disposal methods.
- 18-303. When a septic tank shall be used.
- 18-304. Registration and records of septic tank cleaners, etc.
- 18-305. Use of pit privy or other method of disposal.
- 18-306. Approval and permit required for septic tanks, privies, etc.
- 18-307. Owner to provide disposal facilities.
- 18-308. Occupant to maintain disposal facilities.
- 18-309. Only specified methods of disposal to be used.
- 18-310. Discharge into watercourses restricted.
- 18-311. Pollution of ground water prohibited.
- 18-312. Enforcement of chapter.
- 18-313. Carnivals, circuses, etc.
- 18-314. Violations.

**18-301. Definitions.** The following definitions shall apply in the interpretation of this chapter.

(1) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(2) "Human excreta." The bowel and kidney discharges of human beings.

(3) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(4) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Environment and Conservation as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic

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<sup>1</sup>Municipal code reference  
Sewer: title 18, chapter 2.

tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(5) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(6) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a septic tank or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(7) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1990 Code, § 8-301)

**18-302. Places required to have sanitary disposal methods.** Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1990 Code, § 8-302)

**18-303. When a septic tank shall be used.** Wherever water-carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1990 Code, § 8-303)

**18-304. Registration and records of septic tank cleaners, etc.** Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1990 Code, § 8-304)

**18-305. Use of pit privy or other method of disposal.** Wherever a sanitary method of human excreta disposal is required under section 8-302 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1990 Code, § 8-305)

**18-306. Approval and permit required for septic tanks, privies, etc.** Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility requiring the approval of the health officer under this chapter shall, before the initiation of construction, obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1990 Code, § 8-306)

**18-307. Owner to provide disposal facilities.** It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by section 8-302, or the agent of the owner, to provide such facilities. (1990 Code, § 8-307)

**18-308. Occupant to maintain disposal facilities.** It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1990 Code, § 8-308)

**18-309. Only specified methods of disposal to be used.** No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of except by a sanitary method of disposal as specified in this chapter. (1990 Code, § 8-309)

**18-310. Discharge into watercourses restricted.** No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1990 Code, § 8-310)

**18-311. Pollution of ground water prohibited.** No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, cistern, sinkhole, crevice, ditch, or other opening, either natural or artificial, in any formation which may permit the pollution of ground water. (1990 Code, § 8-311)

**18-312. Enforcement of chapter.** It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate

and serious menace to health, such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1990 Code, § 8-312)

**18-313. Carnivals, circuses, etc.** Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits, such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1990 Code, § 8-313)

**18-314. Violations.** Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1990 Code, § 8-314)

## CHAPTER 4

### FAT, OIL, AND GREASE

#### SECTION

- 18-401. Purpose.
- 18-402. Interceptors.
- 18-403. Definitions.
- 18-404. Fat, oil, grease, and food waste.
- 18-405. Sand, soil, and oil interceptors.
- 18-406. Laundries.
- 18-407. Control equipment.
- 18-408. Enforcement and penalties.

**18-401. Purpose.** The purpose of this chapter is to control discharges into the public sewerage collection system and treatment plant that interfere with the operations or the system, cause blockage and plugging of pipelines, interfere with normal operation of pumps and their controls and contribute waste of a strength or form that is beyond the treatment capability of the treatment plant. (Ord. #127, Sept. 2000)

**18-402. Interceptors.** FOG, waste food and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amounts which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. (Ord. #127, Sept. 2000)

**18-403. Definitions.** In the interpretation and application of this chapter the following words and phrases shall have the indicated meanings:

- (1) "Grease trap." An interceptor whose rated flow exceeds 50 g.p.m. and is located outside the building.
- (2) "Grease interceptor." An interceptor whose rated flow is 50 g.p.m. or less and is located inside the building.
- (3) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity. (Ord. #127, Sept. 2000, modified)

**18-404. Fat, oil, grease, and food waste.** (1) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(2) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or operational problems to structures or equipment in the public sewer system.

(3) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(a) Implement the plan within a reasonable amount of time;

(b) Service and maintain the equipment in order to prevent adverse impact upon the sewer collection system and treatment facility.

If in the opinion of the superintendent the user continues to impact the collection system and treatment plant, additional pretreatment may be required. (Ord. #127, Sept. 2000)

**18-405. Sand, soil, and oil interceptors.** All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors will be sized to effectively remove sand, soil, and oil at the expected flow rates. These interceptors will be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers. (Ord. #127, Sept. 2000)

**18-406. Laundries.** Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids ½ inch or larger in size such as, strings, rags, buttons, or other solids detrimental to the system. (Ord. #127, Sept. 2000)

**18-407. Control equipment.** The equipment or facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control



equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this section shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law.

The town retains the right to inspect and approve installation of the control equipment. (Ord. #127, Sept. 2000, modified)

**18-408. Enforcement and penalties.** Any person who violates this chapter shall be guilty of a civil violation punishable under and according to the general penalty provision of the town's municipal code of ordinances. Each day's violation of this chapter shall be considered a separate offense. (Ord. #127, Sept. 2000)

**CHAPTER 5****CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.**<sup>1</sup>**SECTION**

- 18-501. Definitions.
- 18-502. Standards.
- 18-503. Construction, operation, and supervision.
- 18-504. Statement required.
- 18-505. Inspections required.
- 18-506. Right of entry for inspections.
- 18-507. Correction of existing violations.
- 18-508. Use of protective devices.
- 18-509. Unpotable water to be labeled.
- 18-510. Violations.

**18-501. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the town for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

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<sup>1</sup>The regulations in this chapter are recommended by the Tennessee Department of Environment and Conservation for adoption by cities.

Municipal code reference

Provisions providing for the administration of the water system:  
title 18, chapter 1.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (1990 Code, § 8-401)

**18-502. Standards.** The municipal public water supply is to comply with Tennessee Code Annotated, §§ 68-221-701 and 68-221-720, as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1990 Code, § 8-402)

**18-503. Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the superintendent of the waterworks. (1990 Code, § 8-403)

**18-504. Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the waterworks a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1990 Code, § 8-404)

**18-505. Inspections required.** It shall be the duty of the superintendent of the waterworks to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the superintendent of the waterworks and approved by the Tennessee Department of Health and Environment. (1990 Code, § 8-405)

**18-506. Right of entry for inspections.** The superintendent of the waterworks or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the

inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1990 Code, § 8-406)

**18-507. Correction of existing violations.** Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent of the waterworks.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-13-719, within a reasonable time and within the time limits set by the superintendent of the waterworks shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1990 Code, § 8-407)

**18-508. Use of protective devices.** (1) Where the nature of use of the water supplied a premises by the water department is such that it is deemed

- (a) Impractical to provide an effective air-gap separation,
- (b) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water supply, or his designated representative, that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water supply,
- (c) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing,
- (d) There is a likelihood that protective measures may be subverted, altered, or disconnected, the superintendent of the waterworks or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device

shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent of the waterworks prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

(2) Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of the waterworks or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(3) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent of the waterworks shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent of the waterworks.

(4) The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent of the waterworks. (1990 Code, § 8-408)

**18-509. Unpotable water to be labeled.** In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE  
FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1990 Code, § 8-409)

**18-510. Violations.** The requirements contained herein shall apply to all premises served by the municipal water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this municipal code of ordinances. (1990 Code, § 8-410)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

**1. ELECTRICITY.**

**CHAPTER 1**

**ELECTRICITY**

**SECTION**

19-101. To be furnished by Volunteer Electric Cooperative.

**19-101. To be furnished by Volunteer Electric Cooperative.** Electricity shall be provided to the Town of Benton and its inhabitants by the Volunteer Electric Cooperative. The rights, powers, duties, and obligations of the Town of Benton and its inhabitants, are stated in the agreements between the parties.<sup>1</sup> (1990 Code, § 13-401)

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<sup>1</sup>The agreements are of record in the office of the town recorder.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

**1. FAIR HOUSING.**

**CHAPTER 1**

**FAIR HOUSING<sup>1</sup>**

**SECTION**

20-101. Unlawful practices.

20-102. Local and federal fair housing laws endorsed.

**20-101. Unlawful practices.** It is an unlawful practice for a real estate owner, operator, broker, salesman or individual working for a real estate company to:

(1) Refuse to sell, exchange, rent, lease, or deny to withhold real property on the basis of race, color, religion, national origin or sex;

(2) Discriminate against an individual in terms, conditions or privileges of the sale, exchange, rental or lease of property, or in furnishing of facilities or services in connection with the property;

(3) Refuse to receive a bona fide offer or negotiate for sale to purchase, rent or lease real property;

(4) Say or imply that real property is not available when it is available or to refuse to permit an individual to inspect real property;

(5) Print, circulate, post or mail any advertisement to use an application form which indicates a limitation, specification or discrimination;

(6) Offer, solicit, accept, use or retain a listing of real property for rent, lease, or sale with the understanding the person may be discriminated against;

(7) Otherwise deny or withhold real property from an individual;

(8) Say or imply that a change has or will occur in a block or neighborhood due to race, color, religion, or national origin;

(9) Say or imply that a change will or may result in lower property values, an increase in criminal or anti-social behavior or decline in quality of schools. (1990 Code, § 5-301)

**20-102. Local and federal fair housing laws endorsed.** The Town of Benton, Tennessee hereby endorses the principals of the local and federal fair housing laws. (1990 Code, § 5-302)

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<sup>1</sup>Municipal offenses: title 11.



ORDINANCE NO. 144**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF BENTON TENNESSEE.**

WHEREAS some of the ordinances of the Town of Benton are obsolete, and

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

WHEREAS the Board of Mayor and Commissioners of the Town of Benton, 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 "Benton Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF THE TOWN OF BENTON:

**Section 1. Ordinances codified.** The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Benton Municipal Code," hereinafter referred to as the "municipal code."

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

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is

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<sup>1</sup>State law reference

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

discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

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

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


**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

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

**Section 10. Date of effect.** This ordinance shall take effect twenty (20) days 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, August 8, 2005

Passed 2nd reading, October 2, 2006

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder