

**THE  
COVINGTON  
MUNICIPAL  
CODE**

Prepared by the



**Municipal Technical Advisory Service**  
*In cooperation with the Tennessee Municipal League*

April 2014

**CITY OF COVINGTON, TENNESSEE**

**MAYOR**

David W. Gordon

**VICE MAYOR**

John E. Edwards

**ALDERMEN**

Minnie Bommer

Tommy Black

Jere Hadley

William Scruggs

William E. Timberlake

**RECORDER**

Tina Dunn

**CITY ATTORNEY**

T.D. Forrester

## PREFACE

The Covington Municipal Code contains the codification and revision of the ordinances of the City of Covington, 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 city's ordinance book or the city recorder for a comprehensive and up to date review of the city's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the city'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 city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city 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 Winstead, Nancy Gibson, and Kelley Myers is gratefully acknowledged.

Codification Consultant

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

SECTION 16. . . . All ordinances and resolutions, before being introduced and received and considered by the Board, shall be reduced to writing. No ordinance shall be adopted without first having been passed on three (3) separate occasions, and no more than one (1) passage may be on one (1) day. Any ordinance may be rejected on its first, second or third consideration. No ordinance or resolution shall be adopted unless passed by the affirmative vote of at least four (4) aldermen. However, it shall not be necessary to take any aye and no votes except on third consideration, and at which consideration the names of the Aldermen voting for and against the same shall be entered on the minutes. Any ordinance introduced may pass the first consideration on the day on which it is introduced. The Board of Mayor and Aldermen shall not suspend its rules so as to take up and pass an ordinance on more than one (1) consideration on the same day.

**Form of ordinances**

SECTION 17. All ordinances of the said City of Covington shall begin with an enacting clause as follows, to wit: "Be it enacted by the Board of Mayor and Aldermen of Covington, " and shall conclude with a provision as follows: "This ordinance shall take effect from and after its passage, the welfare of the corporation demanding it." But this section shall not prevent the Board of Mayor and Aldermen from substituting such time as they may desire in the concluding clause for the words "from and after its passage" and in such cases such ordinance shall take effect from and after the time stated.

## TITLE 1

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

#### CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. DIRECTOR OF PUBLIC WORKS.
5. CODE OF ETHICS.

#### CHAPTER 1

### BOARD OF MAYOR AND ALDERMEN<sup>2</sup>

#### SECTION

- 1-101. Order of business.
- 1-102. General rules of order.
- 1-103. Committees and purchasing.
- 1-104. Salaries of aldermen and mayor.

**1-101. Order of business.** At each meeting of the board of mayor and aldermen, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Invocation.

#### <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

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

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

Composition board, quorum: § 3.  
 Election: § 4.  
 Miscellaneous powers: § 19.  
 Residency: § 7.  
 Vacancies: § 9.

- (3) Pledge of allegiance to flag.
- (4) Minutes of preceding minutes approved.
- (5) Report from committees.
- (6) Additions to the agenda.
- (7) Welcome to visitors; any grievances from citizens.
- (8) Report from mayor.
- (9) Report from recorder-treasurer.
- (10) Report from city attorney.
- (11) Old business.
- (12) New business. (1971 Code, § 1-101, modified)

**1-102. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1971 Code, § 1-102, modified)

**1-103. Committees and purchasing.**<sup>1</sup> (1) Committees: The following regular committees are created for the City of Covington.

(a) Finance and administration committee areas of responsibility are:

- (i) Finance;
- (ii) Budget;
- (iii) Insurance;
- (iv) Purchasing;
- (v) Taxation;
- (vi) Employment;
- (vii) Legal services.

(b) Public works committee areas of responsibility are:

- (i) Water;
- (ii) Sewer;
- (iii) Gas;
- (iv) Streets;
- (v) Sanitation;
- (vi) Drainage;
- (vii) Street lights;
- (viii) Maintenance.

(c) General welfare – public safety.

- (i) Fire;

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<sup>1</sup>Municipal code reference  
Purchasing: title 5, chapter 5.

- (ii) Police;
- (iii) Emergency management.
- (d) General welfare-public relations committee areas of responsibility are:
  - (i) Airport;
  - (ii) Parks and recreation.
- (e) Member to City of Covington Board of Public Utilities;
- (f) Member to Covington Municipal-Regional Planning Commission.

(2) The finance and administration committee shall have six (6) members, and the general welfare-public safety, general welfare-public relations, and public works committees shall have three (3) members and one (1) member as member of City of Covington Board of Public Utilities, and one (1) member of the Covington Municipal-Regional Planning Commission who shall be appointed by the mayor with the approval of the board of aldermen, such appointments to be made at the first meeting in December of each even year. The mayor shall have one (1) person from each district on each committee. The mayor shall be an ex-officio member of each committee and shall have the same voting rights of other committee members.

(3) All committees shall serve for a term of two (2) years. If the mayor fails to make appointments within thirty (30) days of the prescribed time, the board of aldermen shall have the right to make such appointments. The mayor shall name the chairman of the committees.

(4) If a vacancy shall occur on any committee, for any reason whatsoever, the vacancy shall be filled by the mayor with the approval of the board of aldermen at the first meeting of the board of mayor and aldermen after such vacancy occurs. If the mayor fails, neglects or refuses to fill the vacancy, the board of aldermen shall have the right to fill such vacancy provided that the vacancy has existed for a period of thirty (30) days or more.

(5) Each committee or committee member shall deal with various agencies, officers and employees of the city, except boards and commissions authorized by the city charter, through the mayor, and shall not have direct supervisory authority over any subordinates of the mayor, either publicly or privately.

(6) The committees shall function to assist the board in making decisions on any designated matter requiring a board decision and approval. In carrying out this function the committee gathers facts, conducts research, evaluates and investigates. Through these actions the committee provides a written report of its findings and recommendations to the full board for corporate decision and action.

Nothing herein contained shall prevent committees from conducting such inquiries into the operations of the city government and the conduct of the city's affairs as it may deem necessary. (Ord. #1279, April 1991, modified)



**1-104. Salaries of aldermen and mayor.** The salary of each member of the board of aldermen shall be six hundred dollars (\$600.00) per month, and the salary of the mayor of the board of mayor and aldermen shall be seventy-five thousand dollars (\$75,000.00) per year, and shall be a full-time position.<sup>1</sup> (1971 Code, § 1-104, as amended by Ord. #1456, Sept. 1999, Ord. #1528, July 2004, Ord. #1603, July 2010, and Ord. #1637, Nov. 2012)

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<sup>1</sup>Charter reference

Salaries of mayor and aldermen: § 13.

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

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

**1-201. Generally supervises city's affairs.** The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1971 Code, § 1-201)

**1-202. Executes city's contracts.** The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1971 Code, § 1-202)

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<sup>1</sup>Charter references  
Election: § 4.  
Powers and duties: § 22.  
Residency: § 7.

## CHAPTER 3

### RECORDER AND TREASURER<sup>1</sup>

#### SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

**1-301. To be bonded.** The recorder and treasurer shall be bonded in such sum as may be fixed by the board of mayor and aldermen, and with such surety as may be acceptable to the board. (1971 Code, § 1-301)

**1-302. To keep minutes, etc.** The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1971 Code, § 1-302, modified)

**1-303. To perform general administrative duties, etc.** The recorder and treasurer shall perform all administrative duties for the board of mayor and aldermen and for the city which are not assigned by the charter, this code, or the board to another corporate officer or employee. 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 city shall provide. (1971 Code, § 1-303)

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<sup>1</sup>Charter references  
Duties: § 25.

## CHAPTER 4

### DIRECTOR OF PUBLIC WORKS

#### SECTION

#### 1-401. Generally

**1-401. Generally.** (1) The board of mayor and aldermen of the City of Covington, Tennessee, shall employ a director of public works who shall be responsible for technical engineering services; streets, sidewalks, and drainage; storm and sanitary sewer inspection, cleaning, and repair; sewerage collection, treatment, and disposal; water supply, treatment, and distribution; natural gas distribution, customer servicing, and safety; refuse collection and disposal; parks and municipal buildings maintenance and repair; and automotive, construction, and related equipment care, use, servicing, and repair.

(2) He shall review overall municipal needs for public works construction and maintenance projects; formulate schedules, assignments, and work plans; and formulate program improvement plans, capital improvement program proposals, and appropriate recommendations for consideration by board committees and the board of mayor and aldermen.

(3) He shall organize, direct, coordinate, and review functional activities, work standards, and accomplishments with respect to all engineering, public works, and utility activities, except electric distribution, including engineering field surveys and inspections, and the coordination of maintenance and construction activities undertaken by private contractors and other utility operations within the public rights-of-way.

(4) He shall confer with and advise subordinates on problems of planning, maintenance, construction, and operation of public works facilities and utility systems; establish administrative and operational policies and procedures; instill public relations attitudes and employee pride in work accomplished; investigate and resolve complaints; explain policies activities, and objectives to employees and interested citizens; and carry on other activities in the development and improvement of public services under his direction.

(5) He shall perform related duties as required and assigned, including coordination with consulting engineers and state regulatory agencies. (1971 Code, § 1-1201)

**CHAPTER 5****CODE OF ETHICS**<sup>1</sup>**SECTION**

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

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

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

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

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

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

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

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

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

A brief synopsis of each of these laws appears in Appendix B of this municipal code.

1-510. Ethics complaints.

1-511. Violations.

**1-501. Applicability.** This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #1557, Aug. 2006)

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

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #1557, Aug. 2006)

**1-503. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (Ord. #1557, Aug. 2006)

**1-504. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects

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

or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #1557, Aug. 2006)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #1557, Aug. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #1557, Aug. 2006)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #1557, Aug. 2006)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #1557, Aug. 2006)

**1-509. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the

performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #1557, Aug. 2006)

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

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #1557, Aug. 2006)

**1-511. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #1557, Aug. 2006)



**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.**

**[RESERVED FOR FUTURE USE]**

**TITLE 3**

**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

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

**CHAPTER 1**

**CITY JUDGE<sup>2</sup>**

**SECTION**

3-101. City judge.

**3-101. City judge.** The city judge shall be appointed by the mayor with the consent of the board, and shall be a licensed attorney and receive the compensation provided by ordinance.

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<sup>1</sup>Charter reference  
Established: § 30.

<sup>2</sup>Charter references  
Appointment, qualifications, compensation, etc.: § 30.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

3-201. Maintenance of docket.

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

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

3-204. Contempt of court.

3-205. Trial and disposition of cases.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; and all other information that may be relevant. (1971 Code, § 1-502, modified)

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

In all cases heard and determined by him, the city judge shall impose court costs in the amount of seventy-five dollars (\$75.00). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

**3-203. Disposition and report of fines, penalties, and costs.** All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1971 Code, § 1-511)

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

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply

when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1971 Code, § 1-506)

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

- 3-301. Issuance of arrest warrants.
- 3-302. Issuance of summonses.
- 3-303. Issuance of subpoenas.
- 3-304. Citations in lieu of arrest in non-traffic cases.
- 3-305. Summonses in lieu of arrest.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1971 Code, § 1-503)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city 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. (1971 Code, § 1-504)

**3-303. Issuance of subpoenas.** The city 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. (1971 Code, § 1-505)

**3-304. Citations in lieu of arrest in non-traffic cases.** Pursuant to Tennessee Code Annotated, § 7-63-101, *et seq.*, the board of mayor and aldermen appoints the fire chief in the fire department and the building official in the building department or their authorized representative as special police officers having the authority to issue citations in lieu of arrest. The fire chief or his authorized representative in the fire department shall have the authority to

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<sup>1</sup>State law reference

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

issue citations in lieu of arrest for violations of the fire code. The building official or his authorized representative in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and residential codes.

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

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (Ord. #1618, July 2011, modified)

**3-305. Summonses in lieu of arrest.** Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the board of mayor and aldermen to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the building official or his authorized representative in the planning and building department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

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

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

- (1) Have a summons issued by the clerk of the city court; or
- (2) May seek the assistance of a police officer to witness the violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest he shall dispose of the person arrested as provided in accordance with Tennessee Code Annotated, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (Ord. #1618, July 2011)

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appeals.

3-402. Bond amounts, conditions, and forms.

**3-401. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1971 Code, § 1-509)

**3-402. Bond amounts, conditions, and forms.** 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 and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1971 Code, § 1-510, modified)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 27-5-101.

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

1. SOCIAL SECURITY.
2. PERSONNEL SYSTEM.
3. PERSONNEL REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. INFECTIOUS DISEASE CONTROL POLICY.
6. TRAVEL REIMBURSEMENT REGULATIONS.

#### 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 to be made.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the City of Covington, Tennessee, to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1971 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. (1971 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. (1971 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. (1971 Code, § 1-704)

**4-105. Records and reports to be made.** The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1971 Code, § 1-705)

## CHAPTER 2

### PERSONNEL SYSTEM<sup>1</sup>

#### SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Administration.
- 4-204. Personnel rules and regulations.
- 4-205. Records.
- 4-206. Right to contract for special services.
- 4-207. Discrimination.
- 4-208. Amendments to chapter.

**4-201. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the City of Covington that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, creed, national origin or handicapping condition. (Ord. #1307, May 1992)

**4-202. Coverage.** All offices and positions of the city are divided into the regular service and exempt service.

The exempt service shall include the following:

- (1) All elected officials and persons appointed to fill vacancies in elective offices.
- (2) The mayor and department heads, (personnel/purchasing officer, police chief, director of public works, park and recreational director, fire chief, and building official).
- (3) All members of appointive boards, commissions, or committees.
- (4) City attorney, recorder-treasurer, and city judge.
- (5) Consultants, advisors, and counsel rendering temporary professional service.
- (6) Independent contractors.
- (7) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.

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<sup>1</sup>See Ord. #1576 (and any amendments), of record in the recorder's office, for a complete copy of the "Personnel Rules and Regulations, Employee Handbook and Work Rules."

- (8) Temporary employees who are employed by the city for not more than four (4) months during the fiscal year.
- (9) Persons rendering part-time service.
- (10) Volunteer personnel, and all other personnel appointed to serve without compensation.
- (11) Employees of the electric utility. (Ord. #1307, May 1992, modified)

**4-203. Administration.** The personnel system shall be administered by the personnel/purchasing officer, who shall have the following duties and responsibilities:

- (1) Exercise leadership in developing an effective personnel administration system subject to the provisions in the ordinance comprising this chapter, other ordinances, the city charter, and federal and state laws relating to personnel administration.
- (2) Establish policies and procedures for the recruitment, appointment, and discipline of all employees of the municipality subject to those policies as set forth in this chapter, the city charter and the municipal code.
- (3) Foster and develop programs for the improvement of employee effectiveness, including training, safety, and health.
- (4) Maintain records of all employees subject to the provisions of this chapter which shall include each employee's class, title, pay rates, and other relevant data.
- (5) Make periodic reports to the board of mayor and aldermen regarding the administration of the personnel system.
- (6) Recommend to the board of mayor and aldermen a position classification plan, and install and maintain such a plan upon approval by the board of mayor and aldermen.
- (7) Prepare and recommend to the board of mayor and aldermen a pay plan for all municipal government employees.
- (8) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law and the board of mayor and aldermen. (Ord. #1307, May 1992, modified)

**4-204. Personnel rules and regulations.** The personnel purchasing officer shall develop rules and regulations necessary for the effective administration of the personnel system. The board of mayor and aldermen shall adopt changes to the rules presented to them by ordinance. Amendments to the rules and regulations shall be made in accordance with the procedure below. (Ord. #1307, May 1992, as amended by Ord. #1359, Nov. 1994)

**4-205. Records.** The personnel/purchasing officer shall maintain adequate records of the employment record of every employee. (Ord. #1307, May 1992)

**4-206. Right to contract for special services.** The board of mayor and aldermen may direct the personnel/purchasing officer to contract with any competent agency for the performance of such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (Ord. #1307, May 1992)

**4-207. Discrimination.** No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, or religious belief. (Ord. #1307, May 1992)

**4-208. Amendments to chapter.** Amendments or revisions of this chapter may be recommended for adoption by any elected official or by department heads. Such amendments or revisions of these rules shall be by ordinance and shall become effective after public hearing and approval by the governing body. (Ord. #1359, Nov. 1994)

## CHAPTER 3

### PERSONNEL REGULATIONS<sup>1</sup>

#### SECTION

- 4-301. Compensation of injured employees.
- 4-302. Business dealings.
- 4-303. Political activity.
- 4-304. Strikes and unions.

**4-301. Compensation of injured employees.** Worker's compensation insurance benefits shall be paid to all employees of the City of Covington who are entitled to the same, but no additional compensation shall be paid by the board of mayor and aldermen to any such employee during the period covered by such payments.

However, while an employee is off his job and drawing worker's compensation, such employee shall be entitled to draw his full pay from the city for a period of only two (2) weeks, and during that time the check for worker's compensation shall be endorsed by the employee and turned over to the city recorder of the city. Otherwise, no benefits received under worker's compensation shall affect the rights of any employee to receive benefits to which he may be entitled under provisions for sick leave or vacation.

The board of mayor and aldermen shall have no right to, or interest in, the proceeds received by any employee from insurance policies carried by him and upon which he alone has paid the premiums.

Payment to an employee under worker's compensation shall be deemed full accord and satisfaction of any and all claims such employee may have against the City of Covington due to injuries sustained by him covered by said insurance. (1971 Code, § 1-902)

**4-302. 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 municipality. (1971 Code, § 1-904)

**4-303. Political activity.** Municipal employees shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local

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<sup>1</sup>See Ord. #1576 (and any amendments), of record in the recorder's office, for a complete copy of the "Personnel Rules and Regulations, Employee Handbook and Work Rules."

political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election. Municipal employees shall not be qualified to run for elected office in the board of mayor and aldermen. The restriction against running for office in the board of mayor and aldermen shall not apply to elective officials.

**4-304. Strikes and unions.** No city officer or employee shall participate in any strike against the city, 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. (1971 Code, § 1-910)

## CHAPTER 4

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM<sup>1</sup>

#### SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.

**4-401. Title.** This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of Covington. (Ord. #1522, Oct. 2003)

**4-402. Purpose.** The City of Covington, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
  - (a) Top management commitment and employee involvement;
  - (b) Continually analyze the worksite to identify all hazards and potential hazards;
  - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
  - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his/her designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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<sup>1</sup>The Occupational Safety and Health Program for the City of Covington, including all appendices is included in this municipal code as Appendix A.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #1522, Oct. 2003)

**4-403. Coverage.** The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Covington shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Covington whether part-time or full-time, seasonal or permanent. (Ord. #1522, Oct. 2003)

**4-404. Standards authorized.** The occupational safety and health standards adopted by the City of Covington are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.<sup>1</sup> (Ord. #1522, Oct. 2003)

**4-405. Variances from standards authorized.** The City of Covington may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Covington shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of Covington shall be deemed sufficient notice to employees. (Ord. #1522, Oct. 2003)

**4-406. Administration.** For the purposes of this chapter, the fire safety director is designated as the director of occupational safety and health to

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.



perform duties and to exercise powers assigned so as to plan, develop, and administer the City of Covington Occupational Safety and Health Program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #1522, Oct. 2003, modified)

**4-407. Funding the program.** Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Covington. (Ord. #1522, Oct. 2003)

## CHAPTER 5

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

- 4-501. Purpose.
- 4-502. Coverage.
- 4-503. Administration.
- 4-504. Definitions.
- 4-505. Policy statement.
- 4-506. General guidelines.
- 4-507. Specific guidelines for city departments.
- 4-508. Hepatitis B vaccinations.
- 4-509. Reporting potential exposure.
- 4-510. Hepatitis B virus post-exposure management.
- 4-511. Human immunodeficiency virus post-exposure management.
- 4-512. Disability benefits.
- 4-513. Training regular employees.
- 4-514. Training high risk employees.
- 4-515. Training new employees.
- 4-516. Records and reports.
- 4-517. Legal rights of victims of communicable diseases.

**4-501. Purpose.** It is the responsibility of the City of Covington to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Covington, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #1298, Feb. 1992)

**4-502. Coverage.** Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;

- (3) Housekeeping and laundry workers;
- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (Ord. #1298, Feb. 1992)

**4-503. Administration.** This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or body fluids;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (Ord. #1298, Feb. 1992)

**4-504. Definitions.** (1) "Body fluids" - fluids that have been recognized by the Centers for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other potentially infectious materials to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes Acquired Immunodeficiency Syndrome (AIDS). HIV is transmitted through sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (Ord. #1298, Feb. 1992)

**4-505. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Centers for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (Ord. #1298, Feb. 1992)

**4-506. General guidelines.** General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or body fluids which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand,

removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

- (a) While handling an individual where exposure is possible;
- (b) While cleaning or handling contaminated items or equipment;
- (c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victim's blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least thirty (30) seconds. A solution must be changed and re-mixed every twenty four (24) hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at one hundred twenty degrees (120°) are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous"

dumpster. NOTE: Sharp objects must be placed in an impervious container and then taken to a hospital for disposal.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD," or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five feet (5') or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with body fluids shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with body fluids.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #1298, Feb. 1992)

**4-507. Specific guidelines for city departments.** (1) Fire and emergency medical services. These guidelines apply to fire and emergency medical services. This includes structural fire fighters, paramedics, emergency medical technicians, and advanced life support personnel. Fire and emergency medical services personnel are engaged in the delivery of medical care in the pre-hospital setting. The following guidelines are intended to assist these personnel in making decisions concerning use of personal protective equipment and resuscitation equipment, as well as for decontamination, disinfection, and disposal procedures.

(a) Appropriate personal protective equipment shall be made available routinely by the city to reduce the risk of exposure as defined above. For many instances, the chance that the rescuer will be exposed to blood and other body fluids can be determined in advance. Therefore, if the chances of being exposed to blood is high (e.g. CPR, IV insertion,

trauma, delivering babies, etc.), the employee shall put on protective attire before beginning patient care.

(b) Disposable gloves shall be a standard component of emergency response equipment, and shall be donned by all personnel prior to initiating any emergency patient care tasks involving exposure to blood or other body fluids. Extra pairs shall always be available.

(i) For situations where large amounts of blood are likely to be encountered, it is important that gloves fit tightly at the wrist to prevent blood contamination of hands around the cuff.

(ii) For multiple trauma victims, gloves should be changed between patient contacts, if the emergency situation allows.

(iii) Greater personal protective equipment measures are indicated for situations where broken glass and sharp edges are likely to be encountered, such as extricating a person from an automobile wreck. Structural fire fighting gloves that meet federal OSHA requirements for fire fighters' gloves shall be worn in any situation where sharp or rough surfaces are likely to be encountered.

(iv) While wearing gloves, avoid handling personal items, such as combs and pens that could become soiled or contaminated.

(A) Gloves that have become contaminated with blood or other body fluids should be removed as soon as possible, taking care to avoid skin contact with the exterior surface.

(B) Contaminated gloves shall be placed and transported in bags that prevent leakage and shall be disposed of properly.

(C) Reusable gloves shall be cleaned and disinfected immediately.

(c) Masks, eyewear and gowns shall be present on all emergency vehicles that respond or potentially respond to medical emergencies or victim rescues.

(i) Protective barriers shall be used in accordance with the level of exposure encountered.

(ii) Minor lacerations or small amounts of blood do not merit the same extent of barrier use as required for exsanguinating victims or massive arterial bleeding.

(iii) Management of the patient who is not bleeding, and who has no bloody body fluids present, should not routinely require use of barrier precautions.

(iv) Masks and eyewear shall be worn together, or a face shield shall be used by all personnel prior to any situation where splashes of blood or other body fluids are likely to occur. Gowns or

aprons shall be worn to protect clothing from splashes with blood. If large splashes or quantities of blood are present or anticipated, impervious gowns or aprons shall be worn. An extra change of work clothing should be available at all times.

(d) Disposable resuscitation equipment and devices shall be used once and disposed of or, if reusable, thoroughly cleaned and disinfected after each use.

(i) Mechanical respiratory assist devices such as big-valve masks or oxygen demand valve resuscitators shall be available on all emergency vehicles and to all emergency response personnel who respond or potentially respond to medical emergencies or victim rescues.

(ii) Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with victims' blood and blood contaminated saliva, respiratory secretions, and vomitus shall be provided to all personnel who provide or potentially provide emergency treatment.

(2) Law enforcement and security officers. Law enforcement officers and security personnel may face the risk of exposure to blood during the conduct of their duties. There is an extremely diverse range of potential situations which may occur in the control of persons with unpredictable, violent, or psychotic behaviors. Therefore, informed judgment of the individual officer is paramount when unusual circumstances or events arise.

The following guidelines are intended to serve as an adjunct to rational decision making in those situations where specific guidelines do not exist, particularly where immediate action is required to preserve life or prevent significant injury.

(a) Law enforcement and security personnel are exposed to a range of assaultive and disruptive behavior through which they may potentially become exposed to blood or other body fluids containing blood.

(i) Behaviors of particular concern are biting, attacks resulting in blood exposure, and attacks with sharp objects. Such behavior may occur in a range of law enforcement situations including arrest, routine interrogations, domestic disputes and lockup operations.

(ii) Hand-to-hand combat may result in bleeding and thus incur a greater chance for blood-to-blood exposure. In all cases, extreme caution must be used in dealing with suspects if there is any indication of assaultive or combative behavior.

(iii) When blood is present and a suspect is combative or threatening to staff, gloves should always be put on as soon as conditions permit. In case of blood contamination of clothing, an extra change of clothing should be available at all times.



(b) Law enforcement personnel should also be concerned about infection through the administration of cardiopulmonary resuscitation. Protective masks or airways shall also be available to officers and provided with the proper training in their use.

(c) An officer should use great caution in searching the clothing of suspects. Individual discretion, based on the circumstances at hand, should determine if a suspect or prisoner should empty his/her pockets by pulling the pocket inside-out or if the officer should use his/her own skills in determining the contents of a suspect's clothing. When a search is warranted the following guidelines shall be used:

(i) A safe distance should always be maintained between the officer and the suspect.

(ii) Protective gloves should be worn if exposure to blood is likely to be encountered.

(iii) Protective gloves should be used for all body cavity searches.

(d) If cotton gloves are to be worn when working with evidence of potential latent fingerprints value at the crime scene, they can be worn over protective disposable gloves when exposure to blood may occur.

(e) Always carry a flashlight, even during the daylight shifts, to search hidden areas. Whenever possible, use long-handled mirrors and flashlights to search under car seats.

(f) If searching a purse, carefully empty contents directly from the purse by turning it upside down over a table.

(g) Use puncture-proof containers to store sharp instruments and clearly mark plastic bags to store other possibly contaminated items.

(h) To avoid tearing gloves, use evidence tape instead of metal staples to seal evidence.

(i) When possible, evidence items should be air dried before sealing in plastic.

(3) Officers and crime scene technicians may confront unusual hazards, especially when the crime scene involves violent behavior such as a homicide where large amounts of blood are present.

(a) Protective gloves shall be available and worn in this setting. While wearing gloves, avoid handling personal items such as combs and pens that may become soiled or contaminated.

(b) In addition, for very large spills, consideration should be given to other protective clothing such as overalls, aprons, boots, or protective shoe covers. They should be changed if torn or soiled, and always removed prior to leaving the scene.

(c) Face masks and eye protection or a face shield are required for laboratory and evidence technicians whose jobs entail potential exposure to blood via a splash to the face, mouth, nose or eyes. Airborne particles of dried blood may be generated when a stain is scraped.

(d) While processing the crime scene, personnel should be alert for the presence of sharp objects such as hypodermic needles, knives, razors, broken glass, nails or other sharp objects.

(e) For detectives, investigators, evidence technicians and others who may have to touch or remove a body, the response should be the same as for situations requiring CPR or first aid;

(i) Wear gloves and cover all cuts and abrasions to create a barrier and carefully wash all exposed areas after any contact with blood.

(ii) The precautions to be used with blood and deceased persons should also be used when handling amputated limbs, hands or other body parts.

(f) Protective masks and eyewear, laboratory coats, gloves and waterproof aprons should be worn when performing or attending all autopsies. All autopsy materials should be considered infectious for both HIV and HBV. Onlookers with an opportunity for exposure to blood splashes should be similarly protected.

(4) Housekeeping and sanitation. All places of employment, passageways, storerooms, and service rooms shall be kept clean and orderly and in a sanitary condition. When a blood or body fluid spill occurs, one of the following disinfecting techniques shall be used:

(a) A chemical germicide that is approved for use as a hospital disinfectant shall be used.

(b) A product registered by the Environmental Protection Agency as being effective against HIV shall be used.

(c) A solution of five and one-fourth percent (5.25%) sodium hypochlorite (household bleach) diluted between 1:10 and 1:100 with water.

Any receptacle used for decaying or rotten solids or liquid waste or refuse shall be so constructed that it does not leak and may be thoroughly cleaned and maintained in a sanitary condition. Such a receptacle shall be equipped with a solid, tight-fitting cover, unless it can be maintained in a sanitary condition with a cover.

All sweeping, solid or liquid wastes, refuse, and garbage shall be removed in such a manner to avoid creating a menace to health and as often as necessary or appropriate to maintain the place of employment in a sanitary condition. (Ord. #1298, Feb. 1992)

**4-508. Hepatitis B vaccinations.** The City of Covington shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall

make the appropriate arrangements through the infectious disease control coordinator. (Ord. #1298, Feb. 1992)

**4-509. Reporting potential exposure.** City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the infectious disease control coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to Human Immunodeficiency Virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #1298, Feb. 1992)

**4-510. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one (1) dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #1298, Feb. 1992)

**4-511. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure.

The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within twelve (12) weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested six (6) weeks, twelve (12) weeks, and six (6) months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first six to twelve (6 – 12) weeks after exposure) exposed workers should follow the U.S. Public Health Service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that workers' confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #1298, Feb. 1992)

**4-512. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Workers' Compensations Bureau in accordance with the provisions of Tennessee Code Annotated, § 50-6-303. (Ord. #1298, Feb. 1992)

**4-513. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #1298, Feb. 1992)

**4-514. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (Ord. #1298, Feb. 1992)

**4-515. Training new employees.** During new employee orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (Ord. #1298, Feb. 1992)

**4-516. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc.) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #1298, Feb. 1992)

**4-517. Legal rights of victims of communicable diseases.** Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and/or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstances not covered in this policy that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (Ord. #1298, Feb. 1992)

## CHAPTER 6

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-601. Purpose.
- 4-602. Enforcement.
- 4-603. Travel policy.
- 4-604. Travel reimbursement rate schedule.
- 4-605. Administrative procedures.

**4-601. Purpose.** The purpose of this chapter and referenced regulations is to bring the city into compliance with Public Acts 1993, chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (Ord. #1344, March 1994)

**4-602. Enforcement.** The mayor of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #1344, March 1994, modified)

**4-603. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the

mayor. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the mayor to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) directly related to the conduct of the city business for which travel was authorized, and

(b) actual, reasonable, and necessary under the circumstances.

The mayor may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (Ord. #1344, March 1994, modified)

**4-604. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #1344, March 1994)

**4-605. Administrative procedures.** The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.



Any agency of the city government whose travel funds are not directly drawn on the municipal treasury shall pay travel expenses from its own funds. Such agencies shall, however, be subject to all other travel regulations and procedures. The mayor may delegate the regulation of travel procedures to an officer or employee of that agency. (Ord. #1344, March 1994, modified)

**TITLE 5****MUNICIPAL FINANCE AND TAXATION**<sup>1</sup>**CHAPTER**

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING.
6. LOCAL SALES TAX.

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

- 5-101. Official depository for city funds.  
5-102. Fiscal year.

**5-101. Official depository for city funds.** The Bancorp South Bank of Covington, Tennessee, is hereby designated as the official depository for all city funds, and all receipts of the City of Covington, Tennessee. (1971 Code, § 6-501, modified)

**5-102. Fiscal year.** The fiscal year for the board of mayor and aldermen of the City of Covington, Tennessee, shall be from July 1 of each year through June 30 of the next year. (1971 Code, § 6-503)

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<sup>1</sup>Charter reference  
Official depository: § 27.

**CHAPTER 2****REAL AND PERSONAL PROPERTY TAXES****SECTION**

5-201. When delinquent--penalty and interest.

**5-201. When delinquent--penalty and interest.** All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized by law. (1971 Code, § 6-101)

**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 state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. The proceeds of the taxes herein levied shall accrue to the general fund of the city. (1971 Code, § 6-301)

**5-302. License required.** No person shall exercise any such privilege within the City of Covington without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege or business tax. (1971 Code, § 6-302)

## CHAPTER 4

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

5-401. To be collected.

**5-401. To be collected.** The recorder is hereby directed to take appropriate action to assure payment to the city 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> (1971 Code, § 6-401)

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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.

## CHAPTER 5

### PURCHASING

#### SECTION

- 5-501. Purchasing officer.
- 5-502. General powers and duties.
- 5-503. Purchasing procedures.
- 5-504. Award of bid or contract.
- 5-505. Performance bonds.
- 5-506. Surplus supplies materials and equipment.
- 5-507. Cooperative purchasing.
- 5-508. Emergency purchases.
- 5-509. Price agreements.
- 5-510. Blanket purchase orders.

**5-501. Purchasing officer.** The purchasing/personnel manager is designated by the mayor with consent of the board. (Ord. #1149, Nov. 1983, modified)

**5-502. General powers and duties.** The general powers and duties of the purchasing officer shall be:

(1) Procure for the city the highest quality in supplies, materials, equipment, and contractual services at the least expense. He shall keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognitions, and by private businesses and organizations.

(2) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.

(3) Exploit the possibilities of bulk and seasonal buying.

(4) Adopt as standards the minimum number of qualities, sizes and varieties of supplies consistent with the successful operation of the city government. Such standards shall be developed in cooperation with the heads of using departments.

(5) Prepare and adopt written specifications for supplies, materials, equipment and services, as may be required. Specifications shall be developed with information available through governmental and private sources and in cooperation with the using departments.

(6) Prescribe and maintain such forms as may be reasonable and necessary to the operation of these rules and the purchasing ordinance.

(7) Prepare, adopt, and maintain such files as may be necessary to the operation of these rules and the purchasing ordinance. To notify the board of

mayor and aldermen of the vendors who default on their quotations, irresponsible bidders and to recommend their disqualification from receiving any business from the municipality for a stated period of time.

(8) Obtain all federal and state tax exemptions to which the city is entitled.

(9) In the purchasing of supplies, materials and equipment for the city's requirements, preference shall be given to those dealers within the City of Covington--price, quality, delivery and service being equal.

(10) Purchases for the city shall be distributed or rotated among the various merchants regularly handling or stocking such merchandise--price, quality, delivery and service being equal.

(11) Upon the advice and consent of the board of mayor and aldermen shall dispose of supplies, materials, and equipment by sale or otherwise.

(12) Develop and maintain an inventory control system on all supplies, materials and equipment of the city. (Ord. #1149, Nov. 1983)

**5-503. Purchasing procedures.** (1) Authorized employees making purchases of fifty dollars (\$50.00) or less:

(a) Such purchases must be authorized by the department head in conjunction with purchasing officer and a limited purchase order signed by the department head issued.

The department head shall get quotations by personal contact, phone, letter or catalog price from three (3) suppliers if possible and this information shall be noted on the purchase order.

(b) Each purchase shall require a bill or invoice from the place of business, showing the date of purchase, purchase order number, item purchased, and sales price.

(c) The employee making such purchases shall sign the bill or invoice. The department head shall also be required to sign the bill or invoice and see that it is delivered to the purchasing officer.

(d) The department head shall not "split-up" petty purchases to circumvent the fifty dollar (\$50.00) maximum.

(2) Purchases of fifty dollars (\$50.00) to four hundred ninety nine dollars (\$499.00), the following shall apply:

(a) The purchasing officer, in conjunction with the department head, shall get quotations by personal contact, phone, letter or catalog price from three suppliers, if possible. This information shall be reflected on the requisition with a listing of the goods or services to be purchased.

(b) The requisition and quotation shall be forwarded to the purchasing officer or his designee, signed by the department head.

(c) The purchasing officer after consulting with the recorder/treasurer shall verify funds are available for such purchases.

(d) The purchasing officer or his designee shall issue a purchase order to the vendor with the lowest and best quotation. If the purchasing officer deems it necessary, he may secure additional quotations.

(e) The department head shall not "split-up" purchases to circumvent this limit.

(3) Purchases of five hundred dollars (\$500.00) to nine thousand nine hundred and ninety-nine dollars (\$9,999.00), the following shall apply:

(a) The purchasing officer, in conjunction with the department head, upon approval of the mayor and the regular committee chairman with an appropriate functional relationship to the specific purchase shall get quotations by personal contact, phone, letter or catalog price from three suppliers, if possible. This information shall be reflected on the requisition with a listing of the goods or services to be purchased.

(b) The requisition and quotation shall be forwarded to the purchasing officer or his designee, signed by the department head.

(c) The purchasing officer after consulting with the recorder/treasurer shall verify funds are available for such purchases.

(d) The purchasing officer or his designee shall issue a purchase order to the vendor with the lowest and best quotation. If the purchasing officer deems it necessary, he may secure additional quotations.

(e) The department head shall not "split-up" purchases to circumvent this limit.

(4) Bids are required for all materials, equipment, supplies and contractual services, when the estimated cost thereof shall exceed ten thousand dollars (\$10,000.00) and shall be purchased by formal written contract from the lowest and best bidder, and after due notice inviting proposals. Purchases shall not be "split-up" to circumvent this limit. All sales of personal property which have become obsolete and unserviceable, shall be sold by formal written contracts to the highest responsible bidder or at public auction.

(a) The purchasing officer in conjunction with the department head, mayor, and regular committee with an appropriate relationship to the specific purchase shall obtain authorization from the board of mayor and aldermen to develop plans and/or bid specifications.

(b) Upon approval of the board of mayor and aldermen, the purchasing officer, in conjunction with the department head, mayor and regular committee with an appropriate functional relationship to the specific purchase, shall develop bid specifications and submit them to the board of mayor and aldermen for approval and for authorization to advertise for bids.

(c) Upon approval of the board of mayor and aldermen, the purchasing officer shall publish notices inviting bids once in at least one official newspaper in the city at least fifteen (15) days preceding the last day for receipt of proposals. The newspaper notice, when it is used shall include a general description of the articles to be purchased or sold, shall



state where bid blanks and specifications may be secured, and the time and place for opening bids. In all cases a notice inviting bids will be posted in an appropriate place in the city hall at least ten (10) days preceding the last day for the receipt of bids. The purchasing officer may solicit bids from all prospective vendors and contractors by mailing them copies of the bids with the necessary specifications, and any other information which will acquaint them with the proposed purchases.

(d) When deemed necessary by the purchasing officer and/or board of mayor and aldermen, bid deposits shall be prescribed in the public notices inviting bids. The amounts of such deposits shall be at least five percent (5%) of the bids and shall be in the form of a bond or certified check. Bonds and certified checks shall be returned to the unsuccessful bidders within five (5) days after the awarding of the contracts. The successful bidder shall forfeit any deposit required upon failure on his part to enter into a contract within fifteen (15) days after the award.

(e) Bids shall be sealed, shall be identified on the envelope, shall be submitted at the place and no later than the time stated in the public notice inviting bids and shall be opened at a public meeting at the time and place stated in the public notice. The purchasing officer shall tabulate all bids and submit the results (along with recommendations and verification that money is available) to the regular committee with an appropriate relationship to the specific purchase, who shall submit a committee recommendation at the next meeting of the board of mayor and aldermen. (Ord. #1149, Nov. 1983, as amended by Ord. #1516, July 2003)

**5-504. Award of bid or contract.** The board of mayor and aldermen shall award all bids for purchases exceeding ten thousand dollars (\$10,000.00) and award all formal contracts, the dollar limits of this chapter not withstanding.

(1) When the award is not given to the lowest bidder a full and complete statement of the reasons for placing the contract elsewhere shall be placed in the minutes of the board meeting following the award.

(2) If all bids received are for the same total amount or unit price, quality being equal, the contract shall be awarded to a local bidder. When the decision can be made in no other way, the contract shall be awarded to one of the tie bidders by drawing lots in public. (Ord. #1149, Nov. 1983, modified)

**5-505. Performance bonds.** To protect the interest of the city, a performance bond in the amount of one hundred percent (100%) of the proposed contract shall be required from the successful bidder before entering into the contract. If such bond is not provided within fifteen (15) days of the award of such bid, the award shall be void. The contractor shall furnish such other bonds

or insurances as may be required by law, the city or specifications. The amounts and types of these bonds and insurances shall be set forth in the bid specifications. (Ord. #1149, Nov. 1983)

**5-506. Surplus supplies, materials and equipment.** The purchasing officer after consultation with the mayor and affected department heads shall have the authority to transfer surplus supplies, materials, and equipment to other using departments, to exchange such personal property for new supplies, materials, and equipment, or to sell personal property which has become unsuitable for public use. Surplus, unuseable, or obsolete supplies, materials, and equipment shall be sold in accordance with the provisions of these rules and regulations and the purchasing ordinance. (Ord. #1149, Nov. 1983)

**5-507. Cooperative purchasing.** The purchasing officer shall have the authority to join with other units of government in cooperation purchasing plans so that the best interest of the city shall be served thereby. (Ord. #1149, Nov. 1983)

**5-508. Emergency purchases.** An emergency purchase is any purchase of supplies, materials, equipment or services in an amount not greater than three thousand five hundred dollars (\$3,500.00), whose immediate procurement is essential to prevent delays of the department which may vitally affect the life, health or convenience of the citizens. The purchasing officer in conjunction with the department head shall submit to the mayor and regular committee chairman a record of the emergency purchasing together with a report of the circumstances of the emergency. (Ord. #1149, Nov. 1983, modified)

**5-509. Price agreements.** A special type of contract, "price agreement," can be used whereby the city does not obligate itself to purchase or to accept a commodity but furnishes the vendor with an estimate of its probable needs as a guide to the amount that may be purchased. The price may be established for the period of the agreement or it may be made variable, such as a fixed discount from an ascertainable amount.

The purchasing officer must use the formal bid and contract procedure for price agreements. (Ord. #1149, Nov. 1983)

**5-510. Blanket purchase orders.** The purchasing officer at his discretion may issue blanket purchase orders for those merchants from whom repeated purchases are made as supplies are required. One (1) purchase order shall be issued for a specified time period not to exceed one (1) month. (Ord. #1149, Nov. 1983)

**CHAPTER 6****LOCAL SALES TAX<sup>1</sup>****SECTION**

5-601. Tax levied.

5-602. Department of revenue collects tax.

5-603. Recorder/treasurer to contract for collection.

**5-601. Tax levied.** There is hereby levied a local sales and use tax as authorized under the provisions of Tennessee Code Annotated, § 67-6-702, at a rate of two and three quarters percent (2.75%) except as limited or modified by statute. (Ord. #1490, Oct. 2001)

**5-602. Department of revenue collects tax.** The Department of Revenue of the State of Tennessee shall collect the additional tax imposed by this chapter concurrent with the collection of the state tax and the local tax now being collected for Tipton County, in accordance with the rules and regulations promulgated by the department. (Ord. #1490, Oct. 2001)

**5-603. Recorder/treasurer to contract for collection.** The recorder/treasurer is hereby authorized to contract with the department of revenue for the collection of the additional tax imposed by this chapter, and to provide in the contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of the tax. (Ord. #1490, Oct. 2001)

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<sup>1</sup>The sales tax rate was approved by the voters on January 15, 2002.

**TITLE 6****LAW ENFORCEMENT****CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST<sup>1</sup>****SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Police department records.

**6-101. Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1971 Code, § 1-401)

**6-102. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1971 Code, § 1-402)

**6-103. Policemen to wear uniforms and be armed.** All policemen shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1971 Code, § 1-403, modified)

**6-104. When policemen 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 policeman in the following cases:

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

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<sup>1</sup>Municipal code reference

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

(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. (1971 Code, § 1-404)

**6-105. Policemen may require assistance in making arrests.** It shall be unlawful for any male person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1971 Code, § 1-405)

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1971 Code, § 1-407)

**TITLE 7****FIRE PROTECTION AND FIREWORKS<sup>1</sup>****CHAPTER**

1. FIRE CODE.
2. FIRE DEPARTMENT.
3. FIRE SERVICE OUTSIDE CITY LIMITS.
4. FIREWORKS.

**CHAPTER 1****FIRE CODE****SECTION**

- 7-101. Fire code adopted.
- 7-102. Definition of "municipality."
- 7-103. Gasoline trucks.
- 7-104. Variances.
- 7-105. Violations and penalties.

**7-101. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,<sup>2</sup> 2006 edition, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the city recorder and is available for public use and inspection. The fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

**7-102. Definition of "municipality."** Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Covington, Tennessee.

**7-103. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline.

**7-104. Variances.** The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.

**7-105. Violations and penalties.** It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions.

## CHAPTER 2

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

7-201. Establishment, equipment, and membership.

7-202. Objectives.

7-203. Organization, rules, and regulations.

7-204. Records and reports.

7-205. Tenure and compensation of members.

7-206. Chief responsible for training and maintenance.

7-207. Chief to be assistant to state officer.

**7-201. Establishment, equipment, and membership.** There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the board of mayor and aldermen shall appoint. (1971 Code, § 7-301)

**7-202. Objectives.** The fire department shall have as its objectives:

(1) To prevent uncontrolled fires from starting.

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

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

(4) To extinguish uncontrolled fires.

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

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1971 Code, § 7-302)

**7-203. Organization, rules, and regulations.** The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the board of mayor and aldermen. (1971 Code, § 7-303)

**7-204. Records and reports.** The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters

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<sup>1</sup>Municipal code reference

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



to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1971 Code, § 7-304)

**7-205. Tenure and compensation of members.** The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and aldermen. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the board of mayor and aldermen.

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1971 Code, § 7-305)

**7-206. Chief responsible for training and maintenance.** The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1971 Code, § 7-306)

**7-207. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1971 Code, § 7-308)

**CHAPTER 3****FIRE SERVICE OUTSIDE CITY LIMITS****SECTION**

7-301. Equipment to be used only within corporate limits generally.

7-302. Rural fire service to subscribers.

**7-301. Equipment to be used only within corporate limits generally.** No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless the fire is on city property or, in the opinion of the mayor or chief of the fire department, is in such hazardous proximity to property owned by or located within the city as to endanger the city property or unless expressly authorized in writing by the board of mayor and aldermen. (1971 Code, § 7-307)

**7-302. Rural fire service to subscribers.** (1) Definitions. As used in this section, the words and terms, as the case may be, shall have definitions as follows:

(a) "City" is the City of Covington, Tennessee.

(b) "Insurance agent" is a person, corporation, partnership or other business entity duly licensed to engage in the insurance business as an agent or broker in Tennessee, and who contracts with the city to pay, for his insured, the sum of five hundred dollars (\$500.00) and payment of which shall be guaranteed by a security bond acceptable to the city.

(c) "Rural fire service" is a fire protection and/or fire fighting service available to subscribers outside the city which service shall be available to a subscriber is in the unlimited discretion of the mayor, the fire chief or the ranking officer on duty in the fire department, fire fighting personnel and/or equipment are not needed to serve the needs of the citizens of Covington and/or have not been dispatched to service other calls or fires in other areas outside of Covington.

(d) "Subscriber" is a person, corporation, partnership or other legal entity who shall have primary liability to the city for the payment of fees and charges for fire calls and who contracts with the city, pays the annual fees, and provides insurance or a bond for payment of fire calls or makes a cash deposit of five hundred dollars (\$500.00) for one (1) commercial or one (1) residential building and accessory buildings to the primary structure, and motor vehicles if they endanger the building of the subscriber and are located within a five (5) mile radius of the city limits of Covington.

(e) "Surety bond" is insurance or a bond executed by a corporate surety or insurer which is authorized to do business in Tennessee and which is acceptable to the city.

(2) Subscription fees, etc. (a) The city will furnish rural fire service, as defined herein, to a subscriber upon payment of a non refundable fee of fifty dollars (\$50.00) per annum in advance commencing on January 1. There will be no prorations of an annual fee paid after January 1<sup>st</sup> of any year.

(b) The subscriber shall guarantee the payment of five hundred dollars (\$500.00) for each fire call in the following manner:

(i) Execute a subscription contract which shall include a certification by an insurance agent, accompanied by a corporate surety bond that five hundred dollars (\$500.00) shall be paid for each fire call made to a subscriber until the bond is canceled or terminated and receipt of notice of cancellation or termination has been acknowledged in writing by the city.

(ii) In the alternative the subscriber may deposit the sum of five hundred dollars (\$500.00) cash with the city and receive one (1) rural fire service call.

(3) Tipton County fire call. The city will respond to fire calls at no cost made by the County of Tipton involving its property and the Tennessee State Highway Patrol in cases of highway accidents involving the safety of persons or damage to state property.

(4) Fees and charges paid to general funds. The fees and charges for rural fire service shall be paid to the general fund of the city and shall be used solely and exclusively to operate and buy equipment for the fire department.

(5) Equipment. The fire chief shall make recommendations to the board of mayor and aldermen for use of rural fire equipment funds for the purchase, maintenance, and operation of any apparatus or equipment needed for the fire department. (Ord. #1408, Dec. 1996, modified)

## CHAPTER 4

### FIREWORKS

#### SECTION

- 7-401. Definitions.
- 7-402. Permits and permit fees.
- 7-403. Permit revocation.
- 7-404. Permissible fireworks.
- 7-405. Storing and structures.
- 7-406. Limitations on structures.
- 7-407. Location of fireworks outlets.
- 7-408. Parking for retail fireworks sales site.
- 7-409. Additional standards for fireworks retailers.
- 7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-411. Limited time period to use fireworks.
- 7-412. Exemptions.
- 7-413. Violations and penalty.

**7-401. Definitions.** (1) As used in this chapter, unless the content otherwise requires:

(a) "Combustible material" means a substance that can be burned to provide heat or power.

(b) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition:

(i) As referenced in the currently adopted fire codes.

(ii) Exceptions:

(A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 C.F.R. 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(c) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(d) "Permit" means the written authority of the City of Covington issued under the authority of this section.

(e) "Person" means any individual, firm, partnership, or corporation.

(f) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(g) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, copartnership, or one (1) or more individual(s).

(h) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (Ord. #1599, Nov. 2009)

**7-402. Permits and permit fees.** (1) It is unlawful for any person to sell or to offer for sale in the City of Covington any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Covington.

(a) Permits are not transferable.

(b) A permit to sell fireworks to the general public is valid only from June 20 through July 5 or December 10 through January 2.

(c) The permit fee for retail permits is fifty dollars (\$50.00) for the summer period and fifty dollars (\$50.00) for the winter period.

(2) A permit to sell fireworks in the City of Covington must be obtained at least two (2) weeks prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal's permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) For a state permit to be obtained by a retailer, the mayor or his or her designee must sign on behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number

of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Signage shall conform to current codes.

(8) The application must contain evidence that general liability insurance has been obtained by applicant naming the City of Covington as additional insured for at least one million dollars (\$1,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(9) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(10) Applicant shall pay one hundred dollars (\$100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed.

(11) After the application has been submitted and approved, the city building inspector, fire inspector, and state electrical inspector (fire inspector and electrical inspector must also inspect by law/ordinance) shall inspect the site for compliance with applicable codes and ordinances. (Ord. #1599, Nov. 2009, as amended by Ord. #1610-1, Feb. 2011)

**7-403. Permit revocation.** (1) The City of Covington may revoke any permit upon failure of retailer to correct any of the following conditions within thirty-six (36) hours after the building official gives written notice.

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city building official.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the building inspector and/or fire inspector, may revoke the permit immediately. (Ord. #1599, Nov. 2009)

**7-404. Permissible fireworks.** (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Covington, except as provided in this chapter, any fireworks as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks; or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G Display Fireworks as defined in the fire code must be under the control of a licensed pyrotechnics technician. (Ord. #1599, Nov. 2009)

**7-405. Storing and structures.** No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words Fireworks--No Smoking in letters not less than four inches (4") high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (Ord. #1599, Nov. 2009)

**7-406. Limitations on structures.** Retail structures including tents meeting the current adopted fire code, building code and Life Safety Code (NFPA 101), and electrical code may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. (Ord. #1599, Nov. 2009)

**7-407. Location of fireworks outlets.** Fireworks sales structures must be no closer than sixty feet (60') from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right-of-way. Any fireworks sales structure must be at least one hundred fifty feet (150') from a residence. (Ord. #1599, Nov. 2009)

**7-408. Parking for retail fireworks sales site.** (1) The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street customer parking.

(2) The retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary.

(3) The parking area must be large enough and constructed so as to accommodate a fire truck as spelled out in NFPA 1124 7.3.4. (Ord. #1599, Nov. 2009)

**7-409. Additional standards for fireworks retailers.** (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any combustible material.

(2) The parcel on which fireworks retail sales is proposed shall be a minimum of seven hundred fifty feet (750') from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location. (Ord. #1599, Nov. 2009)

**7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.** (1) It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person.

(2) It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within three hundred feet (300') of where fireworks are stored, sold, or offered for sale.

(3) It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle.

(4) It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons.

(5) It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property.

(6) It is unlawful to launch fireworks onto property of persons who have not given permission.

(7) It is unlawful to use fireworks at times, places, or in any manner that endangers other persons.

(8) It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Covington Fire Department, except for public (and/or group) displays for which permits have been granted. (Ord. #1599, Nov. 2009)

**7-411. Exclusions.** Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the



United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter. (Ord. #1599, Nov. 2009)

**7-412. Violations and penalty.** Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) per violation. (Ord. #1599, Nov. 2009)

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

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Regulations applicable.
- 8-102. Terms defined.
- 8-103. Manufacturing prohibited.
- 8-104. Engaging in wholesale business prohibited.
- 8-105. Application for and issuance of retailer's license; license fee; licensee must be qualified voter.
- 8-106. No license to be issued for premises too close to a church, etc.; licenses not transferable to other premises; zoning restrictions.
- 8-107. No limitation on number of retail licenses.
- 8-108. Bonds of license.
- 8-109. Restrictions on license holders and employees.
- 8-110. Display of license.
- 8-111. Transfer of license restricted.
- 8-112. Expiration of licenses; renewal.
- 8-113. New license after revocation.
- 8-114. Federal license, effect of.
- 8-115. Inspection fee.
- 8-116. Regulations for purchase and sale of intoxicating liquors.
- 8-117. Use of canvassers or solicitors by retailers prohibited.
- 8-118. Regulation of retail sales.
- 8-119. Possession on streets, etc., restricted.
- 8-120. Chapter not applicable to beer.
- 8-121. Definition of "alcoholic beverages."
- 8-122. Consumption of alcoholic beverages on premises.
- 8-123. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

8-124. Annual privilege tax to be paid to the recorder/treasurer.

8-125. Violations.

**8-101. Regulations applicable.** (1) Pursuant to Tennessee Code Annotated, title 57, as amended, and a referendum held pursuant thereto in the City of Covington, Tennessee, on the 1<sup>st</sup> day of August, 1968, this chapter is enacted.

(2) It shall be unlawful to engage in the business of selling, storing, transporting, or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the City of Covington, Tennessee, except in accordance with the provisions of Tennessee Code Annotated, title 57, chapter 1, and the rules and regulations promulgated thereunder and as provided in this chapter. (1971 Code, § 2-101)

**8-102. Terms defined.** Whenever used herein unless the context requires otherwise:

(1) "Alcoholic beverages" as used in this chapter, unless the context indicates otherwise, means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, liquor, wine and capable of being consumed by a human being, other than patented medicine beer or wine, where the latter contains an alcoholic content of five percent (5%) by weight, or less.

(2) "Gallon or "gallons" wherever used herein, shall be construed to mean a wine gallon or wine gallons of one hundred and twenty-eight (128) ounces. The word "quart," whenever used herein, will be construed to mean one-fourth (1/4) of a wine gallon. The word "pint," whenever used herein, shall be construed to mean one-eighth (1/8) of a wine gallon.

(3) "License" means the license issued as provided herein and "licensee" means any person to whom such license has been issued.

(4) "Manufacturer" means and includes a distiller, vintner and rectifier. "Manufacture" means and includes distilling, rectifying and operating a winery.

(5) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

(6) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

(7) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101 to 57-3-110.

(8) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(9) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic

content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine.

(10) Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural.

(11) The term "federal license" as used herein shall not mean tax receipt or permit. (1971 Code, § 2-102, as amended by Ord. #1508, April 2003)

**8-103. Manufacturing prohibited.** The manufacture of alcoholic beverages is prohibited within the corporate limits of the City of Covington. (1971 Code, § 2-103)

**8-104. Engaging in wholesale business prohibited.** No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits of the City of Covington. (1971 Code, § 2-104)

**8-105. Application for and issuance of retailer's license; license fee; licensee must be qualified voter.** A license for the retail sale of alcoholic beverages may be issued as herein provided. Any person or persons desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the city recorder for a retailer's license. The application shall be in writing on forms prescribed and furnished by the city recorder. Subject to the issuance of a retail license by the Commissioner of Revenue, State of Tennessee, a majority of the board of mayor and aldermen may issue such retailer's license. Such retailer's license shall not be issued unless and until the applicant therefor shall pay the city recorder a license fee of two hundred and fifty dollars (\$250.00) and no license shall be issued except to individuals who are and have been for at least one (1) year legally qualified voters of the City of Covington. (1971 Code, § 2-105)

**8-106. No license to be issued for premises too close to a church, etc.; licenses not transferable to other premises; zoning restrictions.** No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the board of mayor and aldermen, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be in too close proximity to a church, school, or public institution, or otherwise inimical to the public interest. A retailer's license issued under this chapter shall not be valid except at the premises recited in the application. No license shall be granted for the operation of a retail store except in areas zoned for B-1, B-2, B-3, and M-1. (1971 Code, § 2-106)

**8-107. No limitation on number of retail licenses.** No limitation as to number of retail licenses is established by this chapter. (1971 Code, § 2-107)

**8-108. Bonds of licensees.** Bonds required herein shall be executed by a surety company duly authorized and qualified to do business in the State of Tennessee. Bonds of retailers shall be one thousand dollars (\$1,000.00) and shall be conditioned that the principal thereof shall pay any fine which may be assessed against the principal. (1971 Code, § 2-108)

**8-109. Restrictions on license holders and employees.** (1) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued and no other person shall pay for any license issued under this chapter.

(2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county. It shall be unlawful for any such person to have an interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(3) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or she is concerned with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation, or association with which he is connected shall immediately discharge him.

(4) No license shall under any condition be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the selling, possessing, transporting, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto.

(5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.

(6) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed under Tennessee Code Annotated, §§ 57-2-103 to 57-3-105, unless his interest in said business and the nature, extent, and character thereof shall

appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the board of mayor and aldermen and approved by it. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon both the seller and the purchaser.

(7) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(8) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of twenty-one (21) years, and it shall be unlawful for any retailer to employ any person under twenty-one (21) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on his place of business to engage in the storage, sale, or distribution of alcoholic beverages.

(9) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(10) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.

(11) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license shall be a violation of this chapter.

(12) No retailer shall hold, have any interest in, or be the owner of a beer permit of any type issued under the ordinances of the City of Covington. (1971 Code, § 2-109)

**8-110. Display of license.** Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license. (1971 Code, § 2-110)

**8-111. Transfer of licenses restricted.** The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license

shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (1971 Code, § 2-111)

**8-112. Expiration of licenses; renewal.** Licenses issued under this chapter shall expire at the end of each calendar year but, subject to the provisions of this chapter, may be renewed each calendar year by payment of the above-mentioned license fee, and the proportionate part of the license fee prescribed therefor shall be paid in advance at the time application for renewal shall be made. (1971 Code, § 2-112)

**8-113. New license after revocation.** Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (1971 Code, § 2-113)

**8-114. Federal license, effect of.** The possession of a federal license to sell alcoholic beverages, without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (1971 Code, § 2-114)

**8-115. Inspection fee.** There is hereby imposed an inspection fee of five percent (5%) of all gross sales of alcoholic beverages sold by wholesalers to the retailers selling alcoholic beverages in the City of Covington. The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by the City of Covington that an inspection fee has been imposed by ordinance upon the retailers located within the City of Covington. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages. Each wholesaler making sales to retailers located within the City of Covington shall furnish the city a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the city, the wholesale price of the alcoholic sold to each retailer, the amount of fees due, and such other information as may be required by the city. The monthly report shall be furnished the city not later than the twentieth (20<sup>th</sup>) of the month following which the sales were made. The inspection fees collected by the wholesaler from the retailers located within the city shall be paid to the said city at the time the monthly report is made. Wholesalers collecting and remitting the above inspection fee to the city shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to said city. Failure to collect or timely report and/or pay the

inspection fee collected shall result in a penalty of ten percent (10%) of the fee due which shall be payable to the city. Said inspection fee shall be used by the city for only educational, community, and recreational purposes. (1971 Code, § 2-115, as amended by Ord. #1203, March 1987, and Ord. #1651, Sept. 2013)

**8-116. Regulations for purchase and sale of intoxicating liquors.**

(1) It shall be unlawful for any person in the City of Covington to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on.

(4) No retail store shall be located except on the ground floor and it shall have only one (1) main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) public streets, such retail store may maintain a door opening on each of the public streets. Provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public, and provided further, that every retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. If the retail store has a rear entrance or an entrance onto an alleyway, such entrance may be used to receive shipments of intoxicating beverages from the wholesaler, but such entrance may not be used by the public for any purpose whatsoever.

(5) No holder of a license for the sale of alcoholic beverages for retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit.

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

(7) The sales of all alcoholic beverages by a retailer shall be made within the licensed premises; provided, that deliveries of alcoholic beverages sold within the premises may be made by the retailer to a vehicle of the purchaser parked on the lot or lots upon which said licensed premises are situated or at the curb immediately adjacent to the lot or lots upon which said licensed premises are situated, and not elsewhere.

(8) To the fullest extent, consistent with the nature of the establishment, full, free, and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages where sold or dispensed.



(9) No form of entertainment, including pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.

(10) No advertising by licensee, signs, displays, posters, banners, or designs intended to advertise any alcoholic beverages is permitted within the corporate limits except those that are in compliance with the general sign regulations of the City of Covington, Tennessee or any regulations mandated by the State of Tennessee or its regulatory agencies. (1971 Code, § 2-116, as amended by Ord. #1567, March 2007)

**8-117. Use of canvassers or solicitors by retailers prohibited.** No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (1971 Code, § 2-117)

**8-118. Regulation of retail sales.** (1) No retailer shall directly or indirectly operate more than one (1) place of business for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall sell, lend, or give away any alcoholic beverages to any person who is drunk nor to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend, or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) No retailer shall sell, lend, or give away any alcoholic beverages between 11:00 P.M. on Saturday and 8:00 A.M. on Monday of each week, and between 11:00 P.M. and 8:00 A.M. Monday through Saturday.

(5) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers. (1971 Code, § 2-118, modified)

**8-119. Possession on streets, etc., restricted.** Visible possession of alcoholic beverages in an unsealed container upon any public street, or upon any public parking lot, or within any governmental building shall be a violation of this chapter. (1971 Code, § 2-119)

**8-120. Chapter not applicable to beer.** No provision of this chapter shall be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation,

etc., or tax upon beer or other liquids with an alcoholic content of five percent (5%) or less. (1971 Code, § 2-120)

**8-121. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premise consumption which are regulated by said code when such sales are conducted within the corporate limits of Covington, Tennessee. It's the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Covington, Tennessee, the same as if said code sections were copied herein verbatim. (Ord. #1508, April 2003, modified)

**8-122. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, § 57-4-301, for the City of Covington, Tennessee General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Covington, Tennessee, alcoholic beverages for consumption on the premises where sold. (Ord. #1508, April 2003)

**8-123. Annual privilege tax to be paid to the recorder/treasurer.** Any person, firm corporation, joint stock company, syndicate, or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Covington, Tennessee, shall remit annually to the recorder/treasurer the appropriate tax described in § 8-122. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #1508, April 2003)

**8-124. Violations.** Any violation of the term of this chapter shall be punishable under the general penalty clause for this code of ordinances. (1971 Code, § 2-121)

## 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. Classes of permits.
- 8-211. Limitation upon issuance of beer permits.
- 8-212. Conditions.
- 8-213. Legal hours of sale.
- 8-214. Revocation of beer permits.
- 8-215. Civil penalty in lieu of suspension.
- 8-216. Effect of beer board action.

**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board and shall be entitled to vote on all matters coming before the beer board. (Ord. #1514, May 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. #1514, May 2003)

**8-203. Record of beer board proceedings to be kept.** The recorder/ treasurer 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

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<sup>1</sup>Municipal code references  
 Alcohol: title 11, chapter 1.  
 Tax provisions: title 5.

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 beer board. (Ord. #1514, May 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. #1514, May 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 the City of Covington in accordance with the provisions of this chapter. (Ord. #1514, May 2003)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors or any other beverages having an alcoholic content of not more than five percent (5%) by weight. (Ord. #1514, May 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 beer 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). 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. #1514, May 2003)

**8-208. Privilege tax.**<sup>3</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

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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.

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

manufacture of beer shall remit the tax each successive January 1 to the City of Covington, 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. #1514, May 2003)

**8-209. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. 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. (Ord. #1514, May 2003)

**8-210. Classes of permits.** Permits issued by the beer board shall consist of four (4) types:

(1) Manufacturing. A manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, giveaway, distribution, and transportation of the product of each manufacturer, not to be consumed by the producer upon or near the premises of such manufacturer.

(2) Class 1 on premises permit. 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 premise permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Must obtain and maintain a valid hotel-restaurant license from the State of Tennessee;

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

(c) Keep and maintain the premises in a clean and sanitary condition, and obtain the Tennessee Department of Health and Environment, Division of Food and General Sanitation, or its designee, or other proper state and local authority, all necessary permits as required for restaurants in the State of Tennessee;

(d) File with the City of Covington on a monthly basis a copy of the sales tax return due to the State of Tennessee; and

(e) Provide a state sales tax number and federal employee's identification number to the City of Covington.

In addition, the monthly beer sales of any establishment that holds a Class 1 on premises permit shall not exceed forty percent (40%) of the gross sales of the establishment. Any such establishment that for two (2) consecutive months has beer sales exceeding forty percent (40%) of its gross sales, shall have its beer permit revoked. It shall be the responsibility of each applicant to provide the City of Covington appropriate distinctions of the amount of beer and

food sold. Said information shall be provided to the City of Covington on a monthly basis on such forms and according to such procedures as the City of Covington may dictate. The city may, in its discretion, require each applicant to provide such additional information as the City of Covington deems necessary in order to make appropriate distinctions of the amount of beer and food sold. Failure to provide such information shall constitute a violation of this chapter and may result in a revocation or suspension of the permit.

(3) Class 2 on premises permit. Other establishments making application for a permit to sell or give away beer for consumption on the premises, which did not qualify, or do not wish to apply for a Class 1 on premises permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 on premises permit. To qualify for a Class 2 on premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Allow no one under the age of twenty-one (21) years to be in or about the premises where beer is being sold or given away;

(b) Require all customers to have valid identification card on their person;

(c) Provide to the Covington Police Department prior to commencement of employment, the name and address and date of birth of each and every employee for the purpose of ascertaining whether said employee has a criminal record;

(d) Provide and maintain separate sanitary toilet facilities for men and women, and keep and maintain the premises in a clean and sanitary condition;

(e) Allow no assaults, fighting, damaging of property and breaches of peace occurring on or in the premises where beer is sold or given away;

(f) Provide a state sales tax number and federal employee's identification number to the City of Covington;

(g) In the event food is served, shall obtain from the Tennessee Department of Health and Environment, Division of Food and General Sanitation, or its designee, or other state or local authority, all necessary permits as required for sale of food; and

(h) Have all seating in the interior of the building under a permanent roof. No beer shall be allowed outside the building for sale, giveaway, or consumption.

(4) Off premises permit. An off premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Be a grocery store or a convenience type market;

(b) In either case, be primarily engaged in the sale of grocery and personal, home care and cleaning articles, but may also sell gasoline; and

(c) Provide a state sales tax number and federal employee's identification number to the City of Covington.

In addition, an establishment that holds an off premises permit shall not allow sale or giveaway of beer through any type of drive-through window. No beer shall be allowed outside the building for sale, giveaway, or consumption. (Ord. #1514, May 2003)

**8-211. Limitation upon issuance of beer permits.** No Class 2 on premises permit shall be issued to an applicant whose location:

(1) Is within two hundred fifty feet (250') from any hospital, church, school, public park or public playground or other place of public gathering and would cause congestion of traffic or interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety and morals of the citizens; and

(2) The distances shall be measured in a straight line from the nearest point of the building of the Class 2 beer permit applicant to the nearest point of the property line of the hospital, church, school, public park or public playground or other place of public gathering. In the event the Class 2 applicant's business location is located in a building which is partitioned into separate business facilities, such as in a strip center or mall, the distances shall be measured in a straight line from the nearest point of the portion of the partitioned building occupied by the Class 2 beer permit applicant to the nearest point of the property line of the hospital, church, school or other place of public gathering. (Ord. #1566, Jan. 2007)

**8-212. Conditions.** The following are conditions for issuance of a permit under this chapter:

(1) In case of a partnership, a partner shall be the applicant, and, in case of a corporation, any officer or the local manager of the proposed location shall be the applicant. The license shall be issued in the name of the partnership or the corporation, as the case may be. In the case of a corporation, where the local manager is the applicant, the corporation shall report any change in that position.

(2) The applicant shall designate the location of the premises where beer shall be sold or given away and shall name the owner of the premises as well as the lessee thereof.

(3) The applicant shall not sell or give away beer at any place except the premises designated in the petition, except that an applicant may have a permit for more than one (1) location within the City of Covington, so long as a separate permit is issued for each location by the beer board.

(4) The applicant shall make no sales or give away of beer except upon the terms and conditions of the permit issued.

(5) The applicant shall designate in the application whether his application is for beer to be sold or given away for consumption on the premises or consumption off the premises. The application shall not be made for both consumption on and off the premises designated in the application.

(6) No sale or giveaway of beer shall be made to persons under the age of twenty-one (21) years and no such person shall be allowed to loiter about the area where beer is being sold or given away; however, any person eighteen (18) years of age or older may transport, possess, sell or dispense beer in the course of such person's employment in Class 1 on premises establishments and off premises establishments.

(7) The applicant shall allow no gambling upon the premises, nor allow any devices defined as gambling devices by state statute upon the premises designated for sale or giveaway of beer.

(8) Neither the applicant nor any person employed by him shall have been convicted of any violation of any liquor laws, any crime involving moral turpitude, or any felony within the last ten (10) years prior to filing the application.

(9) Neither the owner or any employee of the applicant shall drink intoxicating beverages during hours of operation.

(10) Only the person receiving the beer permit shall act as manager of any establishment granted the right to sell or give away beer within the City of Covington, however, the manager shall designate, in writing with a copy to the City of Covington, an alternative person who shall be in charge of the establishment when he is absent from the premises.

(11) No beer shall be sold or given away to drunk or disorderly persons.

(12) In all on premises locations, there must be sufficient lighting for customers to adequately read a menu, if applicable, and for employees to properly inspect the age and identification card of customers without aid of additional illumination.

(13) The licensee shall maintain an orderly establishment and not be in violation of any health, building or fire department regulations or ordinances of the City of Covington.

(14) The beer board has the full power and authority to enter, inspect and investigate any business operated pursuant to any permits issued by the beer board and has full authority to call upon any member of the police and health departments for assistance in the enforcement of the state laws, city ordinances and rules and regulations of the beer board pertaining to the sale or giveaway of beer.

(15) The licensee with an off premises beer permit shall not allow the consumption of beer anywhere on the premises of the licensee.

(16) No beer may be sold or given away except at places where such sale or giveaway will not cause congestion of traffic or interference with hospitals,



schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals. (Ord. #1514, May 2003, modified)

**8-213. Legal hours of sale.** Except as otherwise provided by state law:

(1) It shall be unlawful for any off-premises permit holder to make or allow any sale or giveaway of beer between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 12:00 noon on Sunday.

(2) It shall be unlawful for any Class 1 permit holder to make or allow any sale or giveaway of beer between the hours of 2:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 2:00 A.M. on Sunday and 11:00 A.M. on Sunday.

(3) It shall be unlawful for any Class 2 permit holder to make or allow any sale or giveaway of beer between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 6:00 A.M. the following Monday.

(4) All Class 1 permit holders must have their place of business cleared of all customers by 2:00 A.M. and Class 2 permit holders must have their place of business cleared of all customers by 1:30 A.M. (Ord. #1638, Nov. 2012)

**8-214. Suspension and revocation of beer permits.**<sup>1</sup> The beer board shall have the power to suspend or 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 suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (Ord. #1514, May 2003)

**8-215. 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 or giveaway of beer to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense or offenses. 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

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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).

shall be deemed withdrawn. However, in no event shall a permit holder be allowed to pay a civil penalty for a second offense of making or permitting to be made a sale or giveaway of beer to minors. (Ord. #1514, May 2003)

**8-216. Effect of board action.** The action of the beer board in all such hearings shall be final, subject only to review by the court. When a permit is revoked, no new permit shall be issued hereunder for the sale or giveaway of beer at the same location or to the same permit holder, as the beer board may determine until the expiration of one (1) year from the date said revocation becomes final. When a permit is suspended, no new permit shall be issued hereunder for the sale or giveaway of beer at the same location or to the same permit holder until the period of suspension is over. (Ord. #1514, May 2003)

## TITLE 9

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

#### CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. SEXUALLY ORIENTED BUSINESSES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 9-101. Selling merchandise, etc., from sidewalks.
- 9-102. "Going out of business" sales.
- 9-103. Carnivals and tent shows, etc.

**9-101. Selling merchandise, etc., from sidewalks.**<sup>2</sup> (1) Prohibition. It shall be unlawful for any person, firm, corporation, company, merchant, church, club, or charitable institution to use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of vending, storing, selling, or displaying any goods, wares, merchandise or produce anywhere within the city except as herein set forth.

(2) Exception. A person, firm, corporation, company, merchant, church, club, or charitable institution may vend, store, sell or display goods, wares, merchandise or produce on the public sidewalks of the city within three feet (3') of a building owned or leased by such person, firm, corporation, company, merchant, church, club, or charitable institution. A non owner or

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<sup>1</sup>Municipal code references

Building, plumbing and residential regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>2</sup>Municipal code reference

Streets and sidewalks, etc.; title 16.

lessee of a building may obtain permission from the owner or lessee to so vend, store, sell or display within the permitted area.

(3) Regulations. No street or alley shall be blocked by any merchandise offered for sale hereunder. On sidewalks a four foot (4') passageway for pedestrians shall be left open, and merchandise shall be securely and adequately placed so that it will not endanger passersby or fall or extrude into any street or alley. Such sales shall not be operated in any manner which would cause a nuisance or create a fire hazard.

(4) Inspections. The chief of police, the chief of the fire department, or the codes enforcement officer shall make or cause to be made sufficient inspections to insure the compliance with the provisions of this section and other applicable provisions of the city ordinances by the personnel conducting such sales.

(5) Penalty. Any person, firm, company, or corporation violating any provision of this section shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(6) Exemption. This section shall not apply to a license issued for "peddlers, etc." as set forth in § 9-201 of the municipal code or to postal boxes placed by the United States Postal Service. (Ord. #1422, Sept. 1997)

**9-102. "Going out of business" sales.** It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1971 Code, § 5-102)

**9-103. Carnivals and tent shows, etc.** All carnivals, tent shows, and like attractions showing within the City of Covington shall provide ample parking space on the premises upon which it is showing, or upon adjacent private property, for its patrons. Also, proper and adequate toilet facilities connected to sanitary sewers, if the same are available, shall be provided for the use and convenience of the employees and patrons of the activity. Such shows shall be operated not less than fifteen (15) blocks from the public square of the city and no games of chance will be permitted in connection therewith. No carnival, tent show, or like attraction shall be allowed to show in any residential section of the city without the express approval of the board of mayor and aldermen. This section shall not be applicable to any carnival, show, or like attraction showing or operating in connection with the county agricultural fair. (1971 Code, § 5-103)

## CHAPTER 2

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

#### SECTION

- 9-201. Permit required.
- 9-202. Definitions and exemptions.
- 9-203. Selling in congested and/or restricted areas.
- 9-204. Application for permit.
- 9-205. Issuance or refusal of permit.
- 9-206. Appeal.
- 9-207. Bond.
- 9-208. Loud noises and speaking devices.
- 9-209. Use of streets.
- 9-210. Times.
- 9-211. Exhibition of permit.
- 9-212. Policemen to enforce.
- 9-213. Revocation or suspension of permit.
- 9-214. Reapplication.
- 9-215. Expiration and renewal of permit.
- 9-216. Advisory committee.
- 9-217. Sales tax number.
- 9-218. Penalty.

**9-201. Permit required.** It shall be unlawful for any peddler or transient merchant to ply his trade within the corporate limits without first applying for said permit by paying a one hundred fifty dollar (\$150.00) annual non-refundable fee and submitting a written application for a transient merchants permit. Said permit shall be checked by Covington Police Department and approval or disapproval be submitted to city recorder's office within five (5) working days. After that time prospective merchant will be required to pay minimum gross receipts business tax as required by State of Tennessee Gross Receipts Tax Act. No permit shall be used at any time by any person other than the one whom it is issued. (Ord. #1142, Oct. 1983)

**9-202. Definitions and exemptions.** (1) Definitions. For the purpose of this chapter a peddler or transient merchant is defined as any person, firm or corporation, whether as owner, agent consignee or employee, whether a resident of the city or not, who engages in a temporary, occasional business of selling and delivering goods, wares and merchandise at retail within said city, and who, in

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<sup>1</sup>Municipal code references  
Privilege taxes: title 5.

furtherance of such purpose hires, leases, uses or occupies any building structure, motor vehicle, tent, railroad box car, or boat, public room in hotels, motels, lodging houses, apartment, shops, or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. Provided if that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed to be subject to the provisions of this chapter. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(2) Exemptions. The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic or philanthropic organizations. This chapter also specifically excludes locally grown farm produce and neighborhood garage sales. (Ord. #1142, Oct. 1983)

**9-203. Selling in congested and/or restricted areas.** No person, firm or corporation shall sell or offer for sale, peddle, or give away any fruits, vegetables, meat, fish, or other produce or merchandise, except sales and deliveries to merchants, in a congested area.

A "congested area" shall be considered the streets, alleys and sidewalks about the public square. (Ord. #1142, Oct. 1983)

**9-204. Application for permit.** Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.
- (6) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business

responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility.

(7) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(8) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(9) At the time of filing the application, a fee of one hundred fifty dollars (\$150.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (Ord. #1142, Oct. 1983)

**9-205. Issuance or refusal of permit.** (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable business taxes and the filing of the bond required by § 9-207. The city recorder shall keep a permanent record of all permits issued. (Ord. #1142, Oct. 1983)

**9-206. Appeal.** Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (Ord. #1142, Oct. 1983)

**9-207. Bond.** Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of two thousand five hundred dollars (\$2,500.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient

merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (Ord. #1142, Oct. 1983)

**9-208. Loud noises and speaking devices.** No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (Ord. #1142, Oct. 1983)

**9-209. Use of streets.** No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Ord. #1142, Oct. 1983)

**9-210. Times.** No permittee shall be allowed to sell or solicit from one (1) hour before sundown until one hour after sunrise inclusive. (Ord. #1142, Oct. 1983)

**9-211. Exhibition of permit.** Permittees are required to exhibit their permits at the request of any policeman or citizen. (Ord. #1142, Oct. 1983)

**9-212. Policemen to enforce.** It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (Ord. #1142, Oct. 1983)

**9-213. Revocation or suspension of permit.** (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the



business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (Ord. #1142, Oct. 1983)

**9-214. Reapplication.** No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (Ord. #1142, Oct. 1983)

**9-215. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire on the same date that the permittee's business tax expires and shall be renewed if the permittee applies for and obtains a new business tax within thirty (30) days thereafter. An application for a renewal shall be made substantially in the same form as an original application. (Ord. #1142, Oct. 1983)

**9-216. Advisory committee.** The mayor shall appoint two (2) local reputable businessmen to serve with him on a three (3) member committee in an advisory capacity in case of potential problems arising from issuance of any permits. (Ord. #1142, Oct. 1983)

**9-217. Sales tax number.** All applicants for transient merchant's permits shall hold a valid State of Tennessee sales tax number and shall affix same on the original application for transient merchant permit. (Ord. #1142, Oct. 1983)

**9-218. Penalty.** Any person or persons operating within the corporate limits of the City of Covington, Tennessee, without first meeting the requirements set forth in §§ 9-201 through 9-218, inclusive, shall be subject to penalties and fines as set forth by municipal ordinance. (Ord. #1142, Oct. 1983)

## CHAPTER 3

### CHARITABLE SOLICITORS

#### SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.

**9-301. Permit required.** No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1971 Code, § 5-301)

**9-302. Prerequisites for a permit.** The recorder shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

- (1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.
- (2) The control and supervision of the solicitation will be under responsible and reliable persons.
- (3) The applicant has not engaged in any fraudulent transaction or enterprise.
- (4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.
- (5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1971 Code, § 5-302)

**9-303. Denial of a permit.** Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1971 Code, § 5-303)

**9-304. Exhibition of permit.** Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1971 Code, § 5-304)

## CHAPTER 4

### TAXICABS<sup>1</sup>

#### SECTION

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.

**9-401. Taxicab franchise and privilege license required.** It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1971 Code, § 5-401)

**9-402. Requirements as to application and hearing.** No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed taxicab stand (which must be located off the public streets and alleys), the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the recorder may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. The recorder will immediately refer the application to the chief of police who will, within ten (10) days after receipt of such application, make a thorough investigation of the applicant; determine if there

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

is a public need for additional taxicab service; return the application to the recorder; and make a recommendation to either grant or refuse a permit to the applicant. The recorder shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the permit the recorder shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab permit. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1971 Code, § 5-402)

**9-403. Liability insurance required.** No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the recorder of the municipality. (1971 Code, § 5-403)

**9-404. Revocation or suspension of franchise.** The recorder, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1971 Code, § 5-404)

**9-405. Mechanical condition of vehicles.** It shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1971 Code, § 5-405)

**9-406. Cleanliness of vehicles.** All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day.

At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1971 Code, § 5-406)

**9-407. Inspection of vehicles.** All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1971 Code, § 5-407)

**9-408. License and permit required for drivers.** No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the recorder. (1971 Code, § 5-408)

**9-409. Qualifications for driver's permit.** No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the recorder:

- (1) Makes written application to the recorder.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1971 Code, § 5-409)

**9-410. Revocation or suspension of driver's permit.** The recorder, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1971 Code, § 5-410)

**9-411. Drivers not to solicit business.** All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1971 Code, § 5-411)

**9-412. Parking restricted.** It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1971 Code, § 5-412)

**9-413. Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1971 Code, § 5-413)

**9-414. Taxicabs not to be used for illegal purposes.** No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1971 Code, § 5-414)

**9-415. Miscellaneous prohibited conduct by drivers.** It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1971 Code, § 5-415)

**9-416. Transportation of more than one passenger at the same time.** No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1971 Code, § 5-416)

**CHAPTER 5****POOL ROOMS<sup>1</sup>****SECTION**

9-501. Hours of operation regulated.

9-502. Minors to be kept out; exception.

9-503. Gambling etc., not to be allowed.

**9-501. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1971 Code, § 5-501)

**9-502. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1971 Code, § 5-502)

**9-503. Gambling, etc., not to be allowed.** It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire to permit any gambling or other unlawful or immoral conduct on such premises. (1971 Code, § 5-503)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

## CHAPTER 6

### CABLE TELEVISION

#### SECTION

9-601. To be furnished under franchise.

**9-601. To be furnished under franchise.** Cable television service shall be furnished to the City of Covington and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Covington and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #1444 dated January 12, 1999 in the office of the city recorder.

See also Ord. #1229 dated August 23, 1999 for a transfer authorization of the franchise.



## CHAPTER 7

### SEXUALLY ORIENTED BUSINESSES

#### SECTION

- 9-701. Purpose and intent.
- 9-702. Definitions.
- 9-703. Establishment and classification of businesses regulated.
- 9-704. Measurement of distance.
- 9-705. Location of sexually oriented businesses.
- 9-706. Regulations governing existing sexually oriented businesses.
- 9-707. Injunction.
- 9-708. Sexually oriented business permit; purpose and intent.
- 9-709. Permit required.
- 9-710. Investigation and application.
- 9-711. Issuance of permit.
- 9-712. Annual permit fee.
- 9-713. Inspection.
- 9-714. Expiration of permit.
- 9-715. Suspension of permit.
- 9-716. Revocation of permit.
- 9-717. Judicial review of permit denial, suspension or revocation.
- 9-718. Transfer of permit.
- 9-719. Sexually oriented business employee license.
- 9-720. Regulations pertaining to exhibition of sexually explicit films or videos  
in video booths.
- 9-721. Prohibitions regarding minors and sexually oriented businesses.
- 9-722. Advertising and lighting regulations.
- 9-723. Hours of operation.
- 9-724. Nudity at sexually oriented businesses prohibited.
- 9-725. Regulations pertaining to live entertainment.
- 9-726. Additional criminal prohibitions for the operation of a sexually oriented  
business without a valid permit.
- 9-727. Exemptions.
- 9-728. Criminal penalties and additional legal, equitable, and injunctive relief.
- 9-729. Immunity from prosecution.
- 9-730. Prohibition of distribution of sexual devices.
- 9-731. Severability.
- 9-732. Conflicting ordinance repealed.

**9-701. Purpose and intent.** It is the purpose and intent of this chapter to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of

sexually oriented businesses within the city, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the chapter to condone or legitimize the distribution of obscene materials. (Ord. #1525, March 2004)

**9-702. Definitions.** For the purposes of this chapter, certain terms and words are defined as follows:

(1) "Sexually oriented businesses" are those businesses defined as follows:

(a) "Adult arcade" means an establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(b) "Adult bookstore," "adult novelty store" or "adult video store" means a commercial establishment which has any of its stock-in-trade or derives any of its revenues or devotes any of its interior business or advertising to the sale, rental for any form of consideration, of any one (1) or more of the following:

(i) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(c) "Adult cabaret" means a nightclub, bar, restaurant "bottle club" or similar commercial establishment, whether or not alcoholic beverages are served which regularly features:

(i) Persons who appear nude or in a state of nudity;

(ii) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

(iii) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(d) "Adult motel" means a motel, hotel or similar commercial establishment which:

(i) Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(ii) Offers a sleeping room for rent for a period of time less than ten (10) hours; or

(iii) Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(e) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

(f) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."

(g) "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(h) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(i) "Massage parlor" means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon,

chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

(j) "Nude model studio" means any place where a person, who regularly appears in a state of nudity, is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(k) "Sexual encounter establishment" means a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one (1) or more of the persons is in a state of nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(2) "Employee" means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

(3) "Establishment" means and includes any of the following:

(a) The opening or commencement of any such business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;

(c) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business.

(4) "Nudity" or "state of nudity" means:

(a) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or

(b) A state of dress which fails to opaquely and fully cover human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

(5) "Operator" means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

(6) "Permitted" or "licensed premises" means any premises that requires a license and/or permit and that is classified as a sexually oriented business.

(7) "Permittee" and/or "licensee" means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(8) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(9) "Public building" means any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

(10) "Public park" or "recreation area" means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities.

(11) "Religious institution" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(12) "Residential district or use" means a single family, duplex, cityhouse, multiple family, or mobile park or subdivision and campgrounds defined in the Covington Zoning Ordinances.

(13) "School" means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(14) "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(15) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.

(16) "Specified anatomical areas," as used in this chapter means and includes any of the following:

(a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(17) "Specified sexual activities" as used in this chapter, means and includes any of the following:

(a) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(c) Masturbation, actual or simulated; or

(d) Human genitals in a state of sexual stimulation, arousal or tumescence;

(e) Excretory functions as part of or in connection with any of the activities set forth in subsections (a) through (d) of this subsection.

(18) "Substantial enlargement of a sexually oriented business" means increase in the floor areas occupied by the business by more than fifteen percent (15%) as the floor areas exist on date ordinance becomes effective.

(19) "Transfer of ownership or control of a sexually oriented business" means and includes any of the following:

(a) The sale, lease or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;

(c) The establishment of a trust, gift or other similar legal device which transfers ownership or control of the business, except for transfer by request or other operation of law upon the death of a person possessing the ownership or control. (Ord. #1525, March 2004)

**9-703. Establishment and classification of businesses regulated.**

The establishment of a sexually oriented business shall be permitted only in the areas available as established by the following restrictions and shall be subject to the following restrictions. No person shall cause or permit the establishment of any of the following sexually oriented businesses, as defined above, within two thousand feet (2,000') of another such business or within two thousand feet (2,000') of any religious institution, school, boys' club, girls' club, or similar existing youth organization, or public park or public building, or within two thousand feet (2,000') of any property zoned for residential use or used for residential purposes and are classified as follows:

(1) Adult arcade;

(2) Adult bookstore, adult novelty store, or adult video store;

(3) Adult cabaret;

(4) Adult motel;

(5) Adult motion picture theater;

(6) Adult theater;

(7) Massage parlor;

(8) Sexual encounter establishment;

(9) Escort agency; or

(10) Nude model studio. (Ord. #1525, March 2004)

**9-704. Measurement of distance.** As regarding § 9-703, distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior

structural wall of each business. The distance between any sexually oriented business and any religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes shall also be measured in a straight line, without regard to intervening structures or objects from the nearest point of the property line of the premises where the sexually oriented business is conducted, to the nearest point of the property line of the premises of a religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes. (Ord. #1525, March 2004)

**9-705. Location of sexually oriented businesses.** The City of Covington's Zoning Ordinance requires that sexually oriented businesses shall be permitted only as provided in § 9-703 in which such use is permissible only under specified conditions and only within such districts where sexually oriented businesses are specifically listed as permissible. Permits for sexually oriented businesses shall be required and governed by the procedures and policies specified in § 9-708 of this chapter. In addition, any sexually oriented business shall be subject to the following restrictions:

(1) A person commits a misdemeanor, if he operates or causes to be operated a sexually oriented business except as provided in § 9-703.

(2) A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within two thousand feet (2,000') of:

- (a) Any religious institution;
- (b) Any school;
- (c) The boundary of any residential district;
- (d) A public park adjacent to any residential district;
- (e) A property line of a lot devoted to residential use; or
- (f) A boys club, girls club, or similar existing youth organization.

(3) A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within two thousand feet (2,000') of another such business, which will include, any adult arcade, adult book store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment.

(4) A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business within the same building.

(5) It is a defense to prosecution under this section if a person appearing in a state of nudity did so in a modeling class operated:

- (a) By a proprietary school, licensed by the State of Tennessee; a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) Where no more than one (1) nude model is on the premises at any one (1) time. (Ord. #1525, March 2004)

**9-706. Regulations governing existing sexually oriented businesses.**

(1) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of a sexually oriented business permit and/or license, of a church, public or private elementary or secondary school, public park, public building, residential district, or residential lot within two thousand feet (2,000') of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license and does not apply when an application for a permit and/or license is submitted after a permit.

(2) Any establishment subject to the provision of this section shall apply for the permit provided for by § 9-710 within thirty (30) days of the effective date of the ordinance comprising this chapter. Any establishment, existing prior to the effective date of this chapter, shall comply with the regulations pertaining to §§ 9-720, 9-722, and 9-730, within sixty (60) days of the effective date of this chapter, and all other applicable permit regulations within thirty (30) days of the effective date of the ordinance comprising this chapter. (Ord. #1525, March 2004)

**9-707. Injunction.** A person who operates or causes to be operated a sexually oriented business without having a valid permit due to location restrictions is subject to a suit for injunction as well as prosecution for the criminal violation. Such violation shall be punishable by a fine of up to five hundred dollars (\$500.00) for each calendar day of the violation, and if an injunction must be sought, attorney's fees and costs will be assessed at the discretion of the court against the sexually oriented business. (Ord. #1525, March 2004)

**9-708. Sexually oriented business permit; purpose and intent.** It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent deleterious



effects of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this chapter to in any way condone or legitimize the distribution of obscene or harmful to minors' material. (Ord. #1525, March 2004)

**9-709. Permit required.** (1) No sexually oriented business shall be permitted to operate without a valid sexually oriented business permit issued by the city for the particular type of business. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business without said permit.

(2) The Mayor of the City of Covington and the board of mayor and aldermen is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The mayor of the City of Covington or his/her designee is also responsible for ascertaining whether a proposed sexually oriented business for which a permit is being applied for complies with all location requirements of §§ 9-703, 9-705, and 9-706 of this chapter, all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this chapter in the city and the city comprehensive plan.

(3) The Covington Police Department is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth.

(4) The city's code enforcement office is responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.

(5) An application for a permit must be made on a form provided by the city. Any person desiring to operate a sexually oriented business shall file with the city an original and two (2) copies of a sworn permit application on the standard application form supplied by the city or designee.

(6) The completed application shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

(i) An individual, the individual shall state his/her legal name and any aliases and submit satisfactory proof that he/she is eighteen (18) years of age.

(ii) A partnership, the partnership shall state its complete name, and the name of all partners, whether the

partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Tennessee the names of city officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he must state:

(i) The sexually oriented business' fictitious name; and

(ii) Submit the required Tennessee registration documents.

(c) Whether the applicant or any of the other individuals listed pursuant to § 9-709 of this chapter has, within the two (2) or five (5) year period as specified in § 9-711 immediately preceding the date of the application, been convicted of a specified criminal act, and if so, the specified criminal act involved, the date of conviction and the place of conviction.

(d) Whether the applicant or any of the other individuals pursuant to § 9-709 and/or licenses of this chapter has had a previous permit under ordinance or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to § 9-709 has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this chapter whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) Whether the applicant or any other individual listed pursuant to § 9-709 held any other permits and/or licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.

(f) The single classification of permit for which the applicant is filing.

(g) The location of the proposed sexually oriented business, including a legal description of the property, street, address and telephone number(s), if any.

(h) The applicant's mailing addresses and residential address.

(i) A recent photograph of the applicant(s).

(j) The applicant's driver's permit number, social security number, and/or his/her state or federally issued tax identification number.

(k) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").

(l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a Tennessee registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this chapter within two thousand feet (2,000') of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park and recreation area within two thousand feet (2,000') of the property to be certified; and the property lines of any residentially zoned area or residential property within two thousand feet (2,000') of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an applicant is submitted.

(m) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.

(n) If a person wishes to operate a sexually oriented business which shall exhibit on the premises films, video cassettes, or other video reproductions which depict specified sexual activities or specified anatomical areas, then said person shall comply with the application requirements stated in § 9-720.

(7) Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the Mayor of the City of Covington or his/her designee, shall be grounds for suspension of a permit.

(8) In the event that the Mayor of the City of Covington or his/her designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

(9) The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.

(10) The applicant shall be required to pay a non-refundable application fee of one hundred dollars (\$100.00) at the time of filing an application under this section of this chapter.

(11) Prior to obtaining any permit or license to operate any sexually oriented business defined in this chapter, and as part of any application for a permit under this section, the applicant shall obtain from the city or its designee a certification that the proposed location of such business complies with the location requirements of §§ 9-705 and 9-706 of this chapter.

(12) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit.

(13) By applying for a permit under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise by the Mayor of the City of Covington or his/her designee, the Covington Police Department and all other city agencies charged with enforcing the laws, ordinances and codes applicable in the city of their respective responsibilities under this chapter.

(14) The applicant shall be required to provide the city with the names of any and all employees who are required to be licensed pursuant to § 9-719 of this chapter. This shall be a continuing requirement even after a permit is granted or renewed. (Ord. #1525, March 2004)

**9-710. Investigation and application.** (1) Upon receipt of an application properly filed with the city and upon payment of the nonrefundable application fee, the city or its designee, shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the Covington Police Department and any other city agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this chapter. Said investigation shall be completed within twenty (20) days of receipt of the application by the city or its designee. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the

application, date it, sign it, and, in the event it is disapproved, state the reasons therefor. The Covington Police Department shall only be required to certify the NCIC records request check mentioned in § 9-711. The Covington Police Department shall not be required to approve or disapprove applications.

(2) A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the city. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the city or its designee. (Ord. #1525, March 2004)

**9-711. Issuance of permit.** (1) The Mayor of the City of Covington or his/her designee, shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth (30th) day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the city or its designee, notifies the applicant of a denial of the application and states the reasons(s) for that denial.

(2) **Grant of application for permit.** (a) The Mayor of the City of Covington or his/her designee, shall grant the application unless one (1) or more of the criteria set forth in subsection (3) below is present.

(b) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall also indicate that the sexually oriented business whether permitted or not may be subject to prohibitions against public nudity and indecency pursuant to the United States Supreme Court decision in *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991). The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.

(3) **Denial of application for permit.** (a) The Mayor of the City of Covington or his/her designee, shall deny the application for any of the following reasons:

(i) An applicant is under eighteen (18) years of age.

(ii) An applicant or an applicant's spouse is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.

(iii) An applicant is residing with a person who has been denied a permit by the city to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(iv) An applicant has failed to provide information required by this section or permit application for the issuance of the permit or has falsely answered a question or request for information on the application form.

(v) The premises to be used for the sexually oriented business is not declared safe by city or state officials.

(vi) The application or permit fees required by this chapter have not been paid.

(vii) An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this chapter including but not limited to the zoning location requirements for a sexually oriented business under §§ 9-703, 9-705 and 9-706.

(viii) The granting of the application would violate a statute, ordinance, or court order.

(ix) The applicant has a permit under this chapter which has been suspended or revoked.

(x) An applicant has been convicted of a "specified criminal" act for which:

(A) Since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(B) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(C) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses for "specified criminal" acts which are sexual crimes against children sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax

violations; offenses occurring within any twenty-four (24) month period;

(D) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(E) An applicant who has been convicted of the above described "specified criminal acts" may qualify for a sexually oriented business permit only when the time period required above in § 9-711(3)(a)(x) has elapsed.

(ix) An applicant knowingly has in his or her employ, an employee who does not have a valid license as required in § 9-719 of this chapter.

(b) If the Mayor of the City of Covington or his/her designee, denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial.

(c) If a person applies for a permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied. (Ord. #1525, March 2004)

**9-712. Annual permit fee.** The annual fee for a sexually oriented business permit is eight hundred fifty dollars (\$850.00). (Ord. #1525, March 2004)

**9-713. Inspection.** (1) An applicant or permittee shall permit representatives of the code enforcement office, the county health department, and the fire department to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) It shall be unlawful and a person who operates a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, or his/her agent or employee commits a misdemeanor if he/she refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. #1525, March 2004)

**9-714. Expiration of permit.** (1) Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in § 9-711 (for renewals, filing of original survey shall be sufficient) of this chapter. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

(2) When the Mayor of the City of Covington or his/her designee, denies renewal of the permit, applicant shall not be issued a permit under this

chapter for one (1) year from the date of denial. If, subsequent to denial, the city or its designee, finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial become final. (Ord. #1525, March 2004)

**9-715. Suspension of permit.** (1) The Mayor of the City of Covington or his/her designee, shall suspend a permit for a period not to exceed thirty (30) days if he/she determines that a permittee, or an employee of a permittee, has:

(a) Violated or is not in compliance with any section of this chapter; or

(b) Been under the influence of alcoholic beverages while working in the sexually oriented business premises; or

(c) Refused to allow an inspection of sexually oriented business premises as authorized by this chapter; or

(d) Knowingly permitted gambling by any person on the sexually promoted business premises; or

(e) Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee, shall promptly notify the permittee of the violation and shall allow the permittee a seven (7) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven (7) day period, the city or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension.

(f) Engaged in permit transfer contrary to § 9-718 of this chapter. In the event that the city or its designee, suspends a permit on the ground that a permittee engaged in a permit transfer contrary to § 9-718 of this chapter, the Mayor of the City of Covington or his/her designee shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied.

(g) Operated the sexually oriented business in violation of the hours of operation in § 9-723.

(h) Knowingly employs a person who does not have a valid license as required in § 9-719 of this chapter. (Ord. #1525, March 2004)

**9-716. Revocation of permit.** (1) The Mayor of the City of Covington or his/her designee shall revoke a permit if a cause of suspension in § 9-715 of this chapter occurs and the permit has been suspended within the preceding twelve (12) months.



(2) The Mayor of the City of Covington or his/her designee, shall revoke a permit upon determining that:

(a) A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or

(b) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises; or

(c) A permittee or an employee has knowingly allowed prostitution on the premises; or

(d) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended; or

(e) A permittee has been convicted of a "specified criminal act" for which the time period required in § 9-711 of this chapter has not elapsed; or

(f) On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or

(g) A permittee is convicted of tax violations for any taxes or fees related to a sexually oriented business; or

(h) A permittee has been operating more than one (1) sexually oriented business under a single roof except as provided in § 9-703(2).

(3) When the Mayor of the City of Covington or his/her designee, revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. (Ord. #1525, March 2004)

**9-717. Judicial review of permit denial, suspension or revocation.**

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek prompt review of such administrative action through the city council or special city review board if one is established by the city. If the denial, suspension or revocation is affirmed upon review, the administrative action shall be promptly reviewed by the court. (Ord. #1525, March 2004)

**9-718. Transfer of permit.** (1) A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

(2) A permittee shall not transfer his/her permit to another person unless and until such other person satisfies the following requirements:

(a) Obtains an amendment to the permit from the Mayor of the City of Covington or his/her designee, which provides that he/she is now the permittee, which amendment may be obtained only if he/she has completed and properly filed an application with the Mayor of the City of Covington or his/her designee, setting forth the information called for under § 9-711 of this chapter in the application; and

(b) Pays a transfer fee of twenty percent (20%) of the annual permit fee set by this chapter.

(3) No permit may be transferred when the Mayor of the City of Covington or his/her designee has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

(4) A permittee shall not transfer his permit to another location.

(5) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void and the permit shall be deemed revoked. (Ord. #1525, March 2004)

**9-719. Sexually oriented business employee license.** (1) Each individual to be employed in a sexually oriented business, as defined in § 9-702 of this chapter, who engages in the services rendered by a semi-nude model studio, escort or escort agency, sexual encounter establishment, massage parlor, or a live performer or entertainer shall be required to obtain a sexually oriented business employee license. Each applicant shall pay a permit fee of twenty-five dollars (\$25.00). Said fee is to cover reasonable administrative costs of the licensing application process.

(2) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Mayor of the City of Covington or his or her designee the following information:

(a) The applicant's name or any other names (including "stage" names) or aliases used by the individual;

(b) Age, date, and place of birth;

(c) Height, weight, hair and eye color;

(d) Present residence address and telephone number;

(e) Present business address and telephone number;

(f) State driver's license or identification number;

(g) Social security number; and

(h) Acceptable written proof that the individual is at least eighteen (18) years of age;

(i) Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Covington Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(j) A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the

filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(k) Whether the applicant has been convicted of a "specified criminal" act as defined in § 9-711(3)(c)(x) of this chapter. This information shall include the date, place, nature of each conviction or plea of nolo contendere and identifying the convicting jurisdiction.

(l) The Mayor of the City of Covington or his or her designee shall refer the sexually oriented business employee license application to the Covington Police Department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the Mayor of the City of Covington or his or her designee shall issue a license unless the report from the sheriff's department finds that one (1) or more of the following findings is true:

(i) That the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the sheriff's department or other department of the city;

(ii) That the applicant is under eighteen (18) years of age;

(iii) That the applicant has been convicted of a "specified criminal act" as defined in § 9-711(3)(c)(x) of this chapter;

(iv) That the sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this chapter;

(v) That the applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application.

(3) Renewal of license. (a) A license granted pursuant to this section shall be subject to annual renewal by the Mayor of the City of Covington or his or her designee upon the written application of the applicant and a finding by the Mayor of the City of Covington or his or her designee and the Covington Police Department that the applicant has not been convicted of any "specified criminal act" as defined in § 9-711(3)(x) of this chapter or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.

(b) The renewal of the license shall be subject to payment of a fee as set by a resolution of the city council. (Ord. #1525, March 2004)

**9-720. Regulations pertaining to exhibition of sexually explicit films or videos in video booths.** (1) A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented motel/hotel and regardless of whether or not a permit has been issued to said business under this chapter, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight feet (8'). The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an "engineer" or "architect" blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The Mayor of the City of Covington or his/her designee, may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city or its designee.

(d) It is the duty of the owners and operator of the premises to insure that at least one (1) employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the

premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in subsection (e) remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this section.

(g) No viewing room may be occupied by more than one (1) person at any one (1) time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two (2.0) foot candle as measured at the floor level.

(i) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present on the premises.

(2) A person having a duty under § 9-709(1)(a)(i)--(ix) commits a misdemeanor if he/she knowingly fails to fulfill that duty. (Ord. #1525, March 2004)

**9-721. Prohibitions regarding minors and sexually oriented businesses.** A person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and knowingly or with reasonable cause to know, permit, suffer, or allow:

(1) Admittance of a person under eighteen (18) years of age to the business premises unless accompanied by a parent or guardian a person under eighteen (18) years of age to remain at the business premises unless accompanied by a parent or guardian;

(2) A person under eighteen (18) years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian; or

(3) A person who is under eighteen (18) years of age to work at the business premises as an employee. (Ord. #1525, March 2004)

**9-722. Advertising and lighting regulations.** (1) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated

a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and advertises the presentation of any activity prohibited by any applicable state statute or local ordinance.

(2) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and displays or otherwise exhibits the materials and/or performances at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

(3) The permittee shall not allow any portion of the interior premises to be visible from outside the premises.

(4) All off-street parking areas and premises entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1.0) foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(5) Nothing contained in this section of the chapter shall relieve the operator(s) of a sexually oriented business from complying with the requirements of the City of Covington, commonly known as the sexually oriented business ordinance, as it may be amended from time to time, or any subsequently enacted city ordinances or regulations. (Ord. #1525, March 2004)

**9-723. Hours of operations.** (1) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and allows such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, or solicit a service between the hours of 12:00 A.M. and 9:00 A.M. of any particular day.

(2) It shall be unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether or not a permit has been used for said business under this chapter, said employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of 12:00 A.M. and 9:00 A.M. of any particular day. (Ord. #1525, March 2004)

**9-724. Nudity at sexually oriented businesses prohibited.** (1) The United States Supreme Court decision in *Barnes v. Glen Theatre, Inc.*, 501 U.S.

560, 111 (1991) which upheld the rights of cities to prohibit live public exposure of a person(s) private parts, specifically applies to sexually oriented businesses (regardless of whether or not a permit has been issued to said businesses under this chapter), including said businesses where no alcoholic beverages are sold, served, or consumed at the premises.

(2) Public nudity is prohibited within the City of Covington, including any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended pursuant to the provisions of § 9-715. (Ord. #1525, March 2004)

**9-725. Regulations pertaining to live entertainment.** (1) For purposes of this section, "live entertainment" is defined as a person who appears nude, semi-nude, or a performance which is characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(2) No person shall perform live entertainment for patron(s) of a sexually oriented business establishment except upon a stage at least eighteen inches (18") above the level of the floor which is separated by a distance of at least ten feet (10') from the nearest area occupied by patron(s). No patron shall be permitted within ten feet (10') of the stage while the stage is occupied by a performer.

(3) The sexually oriented business establishment shall provide separate dressing room facilities for female and male performers which shall not be occupied or used in any way by anyone other than performers.

(4) The sexually oriented business establishment shall provide access for performers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum four foot (4') wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers which prevents any physical contact between patrons and performers.

(5) No entertainer, either before, during, or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.

(6) Fixed rail(s) at least thirty inches (30") in height shall be maintained establishing the separations between performers and patrons required by this section.

(7) No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer. No performer shall solicit any gratuity from any patron.

(8) No operator of a sexually oriented business establishment shall cause or allow a performer to contract or engage in any entertainment such as a "couch" or a "straddle" dance with a patron while in or on the establishment premises. For purposes of this subsection, "couch" or "straddle" dance is defined as an employee of the establishment intentionally touching or coming within ten feet (10') of any patron while engaged in the display or exposure of any "specified anatomical area," or any "specified sexual activity." For purposes of this subsection employee is defined as it is in § 9-702(2).

(9) Section 9-725 shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bartender, comes within ten feet (10') of a patron. No employee shall engage in any "specified sexual activity" or display or expose any "specified anatomical area" while acting as a waiter, waitress, host, hostess, or bartender.

(10) Compliance with this section. (a) For purposes of this section, establishment is defined as it is in § 9-702(3) of this chapter. No establishment shall be in compliance with this section until the city's designated agent(s) have inspected and approved of the establishment's compliance. The city shall have ten (10) days from the date it receives written notice from the operator that the establishment is ready for inspection to approve or disapprove of compliance required by this section. Failure to approve or disapprove of compliance within ten (10) days shall constitute a finding of compliance under this section.

(b) The operator of an establishment, that has been providing live entertainment under a valid sexually oriented business permit, shall have time periods listed below in which to bring the establishment into compliance with this section. Failure to do so while continuing to provide live entertainment shall cause the establishment's permit to be suspended under § 9-715 of this chapter. The permit shall remain suspended until the establishment is approved by the city's designated agent(s) as being in full compliance with this section.

(c) The operator of an establishment that has been operating under a valid permit for another classification of sexually oriented business and who wishes to provide live entertainment at that establishment, shall apply to receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided at that establishment. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this section and all other applicable requirements of this chapter.

(d) The applicant for a permit to operate a new establishment, who wishes to provide live entertainment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided. No live entertainment permit shall be issued until the establishment is



approved as being in full compliance with this section and all other applicable requirements of this chapter.

(e) Subsection (2): Sixty (60) days from the date this section becomes effective.

(f) Subsection (3): Ninety (90) days from the date this section becomes effective.

(g) Subsection (4): Ninety (90) days from the date this section becomes effective.

(h) Subsection (5): Upon the date this section becomes effective.

(i) Subsection (6): Sixty (60) days from the date this section becomes effective.

(j) Subsection (7): Upon the date this section becomes effective.

(k) Subsection (8): Upon the date this section becomes effective.

(Ord. #1525, March 2004)

**9-726. Additional criminal prohibitions for the operation of a sexually oriented business without a valid permit.** (1) In addition to the criminal provisions found at other sections of this chapter, the following additional criminal provision shall also apply to sexually oriented businesses.

(2) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and said person knows or should know that:

(a) The business does not have a sexually oriented business permit under this chapter for any applicable classification;

(b) The business has a permit which is under suspension;

(c) The business has a permit which has been revoked; or

(d) The business has a permit which has expired. (Ord. #1525, March 2004)

**9-727. Exemptions.** (1) It is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) Where no more than one (1) nude model is on the premises at any one (1) time.

(2) It is a defense to prosecution for a violation of this chapter that an employee of a sexually oriented business, regardless of whether or not it is permitted under this chapter, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employees bona fide use of a dressing room which is accessible only to employees. (Ord. #1525, March 2004)

**9-728. Criminal penalties and additional legal, equitable, and injunctive relief.** (1) In addition to whatever penalties are applicable under the Tennessee Penal Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this chapter, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00). Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

(2) Nothing herein contained shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or on action at law for damages.

(3) Further, nothing in this section shall be construed to prohibit the city from prosecuting any violation of this chapter by means of a code enforcement board established pursuant to the authority as provided by the laws of Tennessee.

(4) All remedies and penalties provided for in this section shall be cumulative and independently available to the city and the city shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law. (Ord. #1525, March 2004)

**9-729. Immunity from prosecution.** The city and its designee, the Covington Police Department and all other departments and agencies, and all other city officers, agents and employees, charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this chapter. (Ord. #1525, March 2004)

**9-730. Prohibition of distribution of sexual devices.** (1) It is unlawful for anyone to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for

stimulation of human genital organs or for sado-masochistic use and abuse of themselves or others.

(2) Such devices instruments or paraphernalia include but are not limited to; phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medicinal enema kits, body piercing implements (excluding earrings or other decorative jewelry) and other tools of sado-masochistic abuse.

(3) A violation of this section is a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00). (Ord. #1525, March 2004)

**9-731. Severability.** If any section, subsection or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity with the remaining section, subsection and clauses shall not be effected thereby. (Ord. #1525, March 2004)

**9-732. Conflicting ordinance repealed.** All ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed. (Ord. #1525, March 2004)

## TITLE 10

### ANIMAL CONTROL

#### CHAPTER

1. IN GENERAL.
2. DOGS AND PET ANIMALS.
3. DANGEROUS OR POTENTIALLY DANGEROUS DOGS.

#### CHAPTER 1

#### IN GENERAL<sup>1</sup>

#### SECTION

- 10-101. Running at large prohibited.
- 10-102. General requirements for keeping.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Keeping in such manner as to become a nuisance prohibited.
- 10-105. Seizure and disposition of animals.
- 10-106. Inspections of premises.
- 10-107. Sale or barter of live animals.

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1971 Code, § 3-101)

**10-102. General requirements for keeping.** All persons keeping livestock within the corporate limits must provide at least twelve thousand five hundred (12,500) square feet of pasture for each animal. Furthermore, no person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard

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<sup>1</sup>Municipal code reference

Animals on sidewalks: § 16-110.

or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1971 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. (1971 Code, § 3-103)

**10-104. Keeping in such manner as to become a nuisance prohibited.** No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1971 Code, § 3-105)

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

The city 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. (1971 Code, § 3-107, modified)

**10-106. 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. (1971 Code, § 3-108)

**10-107. Sale or barter of live animals.** (1) It shall be unlawful for any person to willfully sell, display, or offer for sale as part of a commercial transaction or give away a live animal on any street, highway, public right-of-way, commercial parking lot, hotel, motel, or at any outdoor special sale, swap meet, flea market, parking lot sale, or carnival.

(2) A notice describing the charge and the penalty for a violation of this section may be issued by any police officer or code enforcement officer.

(3) This section shall not apply to the following: CARE (Covington Animal Rescue Effort) or authorized rescue group. For purposes of this section, "rescue group" is a not-for-profit entity whose primary purpose is the placement of dogs, cats, or other animals that have been removed from a public animal control agency or shelter, or that have been surrendered or relinquished to the entity by the previous owner. (Ord. #1641, Feb. 2013)

## CHAPTER 2

### DOGS AND PET ANIMALS

#### SECTION

- 10-201. Rabies vaccination required and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Noisy animals prohibited.
- 10-205. Confinement of animals suspected of being rabid.
- 10-206. Seizure and disposition of animals.
- 10-207. Defecating.
- 10-208. Confinement of different animal species.

**10-201. Rabies vaccination required and registration required.**

It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered with Tipton County Animal Control. The vaccination must be by a licensed veterinarian. (Ord. #1551, March 2006)

**10-202. Dogs and cats to wear tags.**

It shall be unlawful for any person to own, keep, or harbor any dog and cat which does not wear, attached to its collar, the tag evidencing the vaccination and registration required in the preceding section. (Ord. #1551, March 2006)

**10-203. Running at large prohibited.**

It shall be unlawful for any person to knowingly permit any animal owned by him or under his control to run at large within the corporate limits. (Ord. #1551, March 2006)

**10-204. Noisy animals prohibited.**

No person shall own, keep or harbor any animal which, by loud and frequent barking, whining, or howling, annoys or disturbs the peace and quiet of any neighborhood. (Ord. #1551, March 2006)

**10-205. Confinement of animals suspected of being rabid.**

Any person who owns any animal which has bitten any person in the corporate limits of Covington, Tennessee, or any person having such animal in his care or under his control, shall confine such animal in an animal clinic or turn it over to the custodian of the pound maintained by the city. Such animal shall remain confined for a period of ten (10) full days to determine if the animal is rabid. If the animal is determined not to be rabid the owner or custodian shall pay to the city, if confined in the pound, a reasonable fee as set from time to time by ordinance of the board of mayor and aldermen per day for each animal so confined before the animal will be returned. Upon failure of the owner to pay

said fee such animal may be destroyed by the custodian of the pound. If the animal is determined to be rabid, the owner of animal shall pay a reasonable fee as set by ordinance of the board of mayor and aldermen per day while the animal is confined. (Ord. #1551, March 2006, modified)

**10-206. Seizure and disposition of animals.** Any animal found running at large may be seized by animal control or any police officer and placed in a pound provided or designated by the board of mayor and aldermen. If said animal 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 animal by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the animal will be humanely destroyed or sold. If said animal is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within (5) days. The owner of the animal shall present a copy of the receipt for rabies vaccination and a copy of a vaccination certificate to a representative of the public works department within one (1) working day of the animal being redeemed.

When because of its viciousness or apparent infection with rabies, an animal found running at large cannot be safely impounded it may be summarily destroyed by animal control or any policeman. (Ord. #1551, March 2006)

**10-207. Defecating.** An owner or person having custody of any animal shall not permit the animal to defecate on any school ground, public street, alley, sidewalk, park or any other public grounds or any private property within the city, other than the premises of the owner or person having custody of the animal unless such defecation is removed immediately and placed in any solid waste container for collection by the city. (Ord. #1551, March 2006)

**10-208. Confinement of different animal species.** (1) Dogs must be confined to their owner's property. Permitted methods of confinement include underground fence, a secure vertical enclosure of at least one hundred (100) square feet per dog, or tethering consistent with the following sections. Cats that have been either spayed or neutered are not required to be confined, however this does not release the owner of a cat from being responsible for damage caused by said cat.

(2) The tethering device should not exceed one-eighth (1/8) of the animal's body weight; should not allow the animal to leave the owner's property; should not limit access to food, water, and shelter; should allow the animal to move around so as to be able to urinate and defecate in an area separate from the area where it must eat, drink, or lie down; should be attached to a properly fitting harness or a collar with a buckle; should be at least ten feet (10') in length, have swivels at both ends; should be properly attached to a pulley or



trolley mounted on a cable, which is at least ten feet (10') in length and mounted no less than four feet (4') and no more than ten feet (10') above the ground.

(3) As stated in § 10-304 any animal that has been determined to be potentially dangerous must be confined in a proper enclosure as defined in § 10-301(2).

(4) Adequate food, water, shelter, and health care shall be provided by owners to any animal in their possession.

The City of Covington will make the identification of potentially dangerous or dangerous animals a point of emphasis. (Ord. #1551, March 2006)

## CHAPTER 3

### DANGEROUS OR POTENTIALLY DANGEROUS DOGS

#### SECTION

- 10-301. Definitions.
- 10-302. Determination of potentially dangerous or dangerous dog.
- 10-303. Exceptions.
- 10-304. Keeping a potentially dangerous or dangerous dog prohibited.
- 10-305. Enforcement.
- 10-306. Violation/penalties.
- 10-307. Cost to be paid by responsible person.
- 10-308. Reporting of incidents.
- 10-309. Severability.

**10-301. Definitions.** (1) "At-large." A dog running loose without leash or restraint measures.

(2) "Dangerous dog." Any animal that:

(a) Causes serious injury to a person or domestic animal; or

(b) Has been designated as a potentially dangerous animal and engages in behavior that poses a threat to public safety as described in subsection (5) of this section.

(3) "Impound." Taken into custody of animal control or an organization authorized to enforce the dangerous animal law of this jurisdiction.

(4) "Owner." Any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of a dog.

(5) "Potentially dangerous dog." Any dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:

(a) Causing an injury to a person or domestic animal that is less severe than a serious injury;

(b) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner;

(c) Running at large and impounded or owners cited by animal control two (2) or more times within any twelve (12) month period;

(d) Acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.

(6) "Proper enclosure." Secure confinement indoors or secure confinement in a locked pen, fenced yard, or structure measuring at least six feet (6') in width, twelve feet (12') in length, and six feet (6') in height, capped if there is a dog house inside or if dog can climb fence, with secure sides, which provides proper protection from the elements for the animal, is suitable to

prevent entry of young children, and is designed to prevent the animal from escaping while on the owner's property. The pen must be constructed of such material and closed in such a manner that the animal cannot exit the enclosure on its own.

(7) "Provocation." Tormenting, abusing, or assaulting any dog.

(8) "Responsible person." A person at least eighteen (18) years old who is familiar with the dog and has the size and experience to be able to keep the animal under complete control at all times.

(9) "Serious injury." Any physical injury that results in broken bones or lacerations that require multiple sutures or cosmetic surgery. (Ord. #1551, March 2006)

**10-302. Determination of potentially dangerous or dangerous dog.**

The determination of whether a dog is potentially dangerous or dangerous shall be made by the judge presiding in the court of the City of Covington, Tennessee. (Ord. #1551, March 2006)

**10-303. Exceptions.** No dog shall be declared dangerous or potentially dangerous if:

(1) The animal is used by a law enforcement official for legitimate law enforcement purposes;

(2) The animal is owned or controlled by any circus, carnival or other exhibit or show which keeps such animals for exhibition to the public, provided such animals are securely confined or restrained so as not to endanger human beings.

(3) The animal is owned or controlled by a bona fide, licensed veterinary hospital which keeps such animals for treatment or impoundment.

(4) The threat, injury, or damage was sustained by a person:

(a) Who was committing, at the time, a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog;

(b) Who was provoking, tormenting, abusing, or assaulting the animal or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the animal; or

(c) Who was committing or attempting to commit a crime; or

(5) The animal was:

(a) Responding to pain or injury, or was protecting itself, its offspring; or

(b) Protecting or defending a human being within the immediate vicinity or the animal from an attack or assault. (Ord. #1551, March 2006)

**10-304. Keeping a potentially dangerous or dangerous dog prohibited.** It shall be unlawful for any person to harbor or keep any dog that has:

(1) Been determined to be potentially dangerous unless such animal is confined in a proper enclosure as defined by § 10-301(2) or unless the dog is securely attached to a leash not more than four feet (4') in length with the dog and leash being under the control of a responsible person;

(2) Been declared dangerous pursuant to this chapter. (Ord. #1551, March 2006)

**10-305. Enforcement.** (1) Any person who witnessed or has other personal knowledge that any act made unlawful by this chapter has been committed, or that any dog should be declared potentially dangerous or dangerous, may sign a complaint against the alleged violator or owner of such animal.

(2) Any police officer, special police officer or animal control officer employed by the city, or acting under a city contract with another government entity, is authorized to issued a summons and complaint to any person when the officer personally observes a violation of the provisions of this chapter or when information is receive from any person who has knowledge that an act which is made unlawful by this chapter has occurred or that a dog should be declared potentially dangerous or dangerous.

(3) Should a police officer, special police officer or animal control officer witness or receive information concerning a violation of/or behavior as described in subsections (1) or (2), he or she may, in his or her discretion, impound the dog involved pending a hearing as described in subsections (4) through (6) below.

(4) When a complaint or summons has been issued pursuant to subsections (1) or (2) above, or upon motion of an animal owner whose animal has been impounded under subsection (3) above, the city court is empowered to hold hearings or determine whether reasonable grounds exist to believe that a violation has occurred to whether a dog should be declared potentially dangerous or dangerous. Said hearings may be held on an ex parte basis if the court, within its discretion, determines it necessary to protect the public health or safety. After the hearings, if the court finds that reasonable grounds exist, the court is empowered to enter orders, either on its own motion or on the motion of the city, to have the animal in question seized and impounded or to continue the impoundment of the animal, at the owner's expense, until the completion of all legal proceedings.

(5) If the court finds a violation of this chapter, it shall order the potentially dangerous dog to be confined in a proper enclosure or the dangerous animal to be destroyed or immediately removed from the city. If a dog is ordered destroyed or removed from the city pursuant to this subsection, the person who owns, possesses, or keeps the animal shall be entitled to petition the circuit court within fourteen (14) days of the order to review the propriety of the order. However, said animal shall be impounded and remain in custody pending a final order in the judicial proceedings.

(6) Should the defendant fail to immediately remove the dog from the city as ordered by the court, the city court judge shall find the defendant in contempt and order the immediate confiscation, impoundment and destruction of the animal. (Ord. #1551, March 2006)

**10-306. Violation/penalties.** Any person violating or permitting the violation of any provision of this chapter shall, upon conviction in the city court, be subject to a fine of up to fifty dollars (\$50.00) for each separate violation. Each day that a violation of this chapter continues shall constitute a separate violation. Each day that a violation of this chapter continues shall constitute a separate offense. (Ord. #1551, March 2006)

**10-307. Cost to be paid by responsible person.** In addition to the foregoing penalties, all expenses including without limitation, any costs incurred by the City of Covington for shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this chapter shall be charged against the owner, keeper or harbinger of such animal and the owner of the property on which such animal is kept. Payment for such costs shall be collected by the city's recorder-treasurer. (Ord. #1551, March 2006)

**10-308. Reporting of incidents.** It shall be mandatory, for the owner of the dog and the person bitten, to report all dog bites, whether occurring upon the streets, sidewalks, or any public or private property, to the Covington Police Department. In addition, it shall be mandatory to report any unprovoked attacks and/or any incidents in which animals exhibit threatening or menacing behavior to a person upon the streets, sidewalks or any public or private property. Reports to the police departments shall contain the following:

- (1) The date and location of the incident;
- (2) The name, address, and age of the victim and, if the victim is a minor, the name and address of his or her parent or legal guardian, if known;
- (3) The breed of animal involved or its classification as mixed breed, and a description of the animal;
- (4) The identity of the owner or keeper of the animal, if known; and
- (5) The action taken or ordered by the city court in response to such incident. (Ord. #1551, March 2006)

**10-309. Severability.** If any provision of title 10, chapter 3, "Dangerous or Potentially Dangerous Dogs," or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of said chapter 3 that can be given effect without the invalid provision or application, and to that end the provisions of chapter 3 are declared to be severable. (Ord. #1551, March 2006)

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

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

#### CHAPTER 1

#### ALCOHOL<sup>2</sup>

#### SECTION

- 11-101. Drinking beer, etc., on streets, etc.  
 11-102. Public drunkenness.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or 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 unless the place has an appropriate permit and/or license for on premises consumption. (1971 Code, § 10-229)

**11-102. Public drunkenness.** It shall be unlawful for any person to be drunk in a public place or in any other place open to public view. (1971 Code, § 10-228)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

Residential and utility codes: title 12.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

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

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

**11-201. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1971 Code, § 10-202)

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

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

(a) **Blowing horns.** The sounding of any horn or signal device on any automobile, motorcycle, bus, 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 persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

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

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 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.



(l) 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.

(m) Loud sound amplification systems in vehicles. (i) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway, whether public or private property, shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle.

(ii) "Sound amplification system" means any radio, tape player, compact disc player, loud speaker, or other electronic device used for amplification of sound.

(iii) "Plainly audible" means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of fifty (50) or more feet. Measurement standards shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked, or moving on a street, highway, alley, parking lot, or driveway on either public or private property.

(iv) It is an affirmative defense to a charge under this subsection that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(A) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition; or

(B) The vehicle was an emergency or public safety vehicle; or

(C) The vehicle was owned or operated by the City of Covington or a gas, electric, communications, or refuse company; or

(D) The system or vehicle was used in other authorized activities which have the approval of the board of mayor and aldermen or a department of the city authorized to grant such approval.

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

(a) City vehicles. Any vehicle of the city 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 city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1971 Code, § 10-234, as amended by Ord. #1481, Sept. 2001)

### CHAPTER 3

#### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

##### SECTION

11-301. Impersonating a government officer or employee.

11-302. False emergency alarms.

11-303. Resisting or interfering with an officer.

**11-301. Impersonating a government officer or employee.** No person other than an official police officer of the city 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 city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1971 Code, § 10-211)

**11-302. False emergency alarms.** It shall be unlawful for any person intentionally to 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. (1971 Code, § 10-217)

**11-303. Resisting or interfering with an officer.** It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his municipal duties. (1971 Code, § 10-210)

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

11-401. Air rifles, etc.

**11-401. Air rifles, etc.** It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1971 Code, § 10-213)

## CHAPTER 5

### TRESPASSING AND INTERFERENCE WITH TRAFFIC

#### SECTION

11-501. Trespassing.

11-502. Trespassing on trains.

11-503. Interference with traffic.

**11-501. Trespassing.** It shall be unlawful for any person, other than public officers and employees in the discharge of official duties, to enter into or upon any dwelling, business or any other building or premises of another, after having been warned not to do so by the person in possession of his agent or representative. The placement of conspicuous and properly worded signs on the premises shall constitute proper warning.

It shall be unlawful for any person, other than public officers and employees in the discharge of official duties, to remain in or upon any dwelling, business or any other building or premises of another, after having been ordered or requested to depart therefrom by the person in possession or his agent or representative, or by properly worded signs. (Ord. #1383, Oct. 1995)

**11-502. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1971 Code, § 10-221)

**11-503. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1971 Code, § 10-233)

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

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

11-602. Posting notices, etc.

11-603. Wearing masks.

**11-601. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1971 Code, § 10-232)

**11-602. Posting notices, etc.** No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1971 Code, § 10-227)

**11-603. Wearing masks.** It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1971 Code, § 10-236)

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

#### 1. VARIOUS CODES ADOPTED.

#### CHAPTER 1

#### VARIOUS CODES ADOPTED<sup>1</sup>

#### SECTION

12-101. Codes adopted.

12-102. Miscellaneous.

**12-101. Codes adopted.** The following codes are hereby adopted by reference as though they were copied herein fully and as may be amended from time to time:

(1) International Building Code, 2006 edition:

(a) All residential structures in the City of Covington, Tennessee shall be built on sixteen inch (16") centers, including floor-framing members, roof members, and wall-framing members, however, wall-framing members may be constructed on twenty-four inch (24") centers only if using 2x6" studs or larger.

(b) Any structure converted to a residential structure in the City of Covington, Tennessee shall meet the requirements of sixteen inch (16") centers as listed in (a) above.

(c) All structures located in a flood zone shall have at least one foot (1') of freeboard.

(d) Complete deletion of chapter 11 (Accessibility), chapter 27 (Electrical) and Appendix K (Electrical Code).

(e) Include Appendix H (Signs) and Appendix I (Patio Covers).

(f) The following letter visibility chart for address numbers on structures shall be adopted:

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

Viewing Distance	Minimum Required Letter Height
100 ft.	4 in.
150 ft.	6 in.
200 ft.	8 in.
250 ft.	10 in.
360 ft. (city block)	16 in.
500 ft.	22 in.
750 ft.	33 in.
1,000 ft.	43 in.
1,320 ft. (1/4 mile)	57 in.

(2) International Residential Code, 2006 edition:

(a) All residential structures in the City of Covington, Tennessee shall be built on sixteen inch (16") centers, including floor-framing members, roof members and wall-framing members, however, wall-framing members may be constructed on twenty-four inch (24") centers only if using 2x6" studs or larger.

(b) Any structure converted to a residential structure in the City of Covington, Tennessee shall meet the requirements of sixteen inch (16") centers as listed in (a) above.

(c) All structures located in a flood zone shall have at least one foot (1') of freeboard.

(d) Complete deletion of Appendix I (Private Sewage Disposal) and Appendix L (Permit Fees).

(e) The following letter visibility chart for address numbers on structures shall be adopted:

Viewing Distance	Minimum Required Letter Height
100 ft.	4 in.
150 ft.	6 in.
200 ft.	8 in.
250 ft.	10 in.
360 ft. (city block)	16 in.
500 ft.	22 in.
750 ft.	33 in.
1,000 ft.	43 in.
1,320 ft. (1/4 mile)	57 in.



- (3) International Plumbing Code, 2006 edition:
  - (a) Complete deletion of Appendix A (Plumbing Permit Fee Schedule).
- (4) International Mechanical Code, 2006 edition:
  - (a) Complete deletion of Appendix B (Recommended Permit Fee Schedule).
- (5) International Fuel Gas Code, 2006 edition.
- (6) International Existing Building Code, 2006 edition.
- (7) North Carolina Accessibility Code, 2002 edition with 2004 amendments.
- (8) NFPA 101 Life Safety Code, 2006 edition:
  - (a) This code only applies to state buildings, educational occupancies and any other occupancy requiring an inspection by the state fire marshal for initial licensure.
- (9) International Fire Code, 2006 edition.
- (10) International Property Maintenance Code, 2006 edition.
- (11) National Electrical Code, 2008 edition.

Note: Several sections of the 2008 edition of the NEC, as stated in rule 0780-2-1.11, are exempted out from adoption and will not be mandatory but optional for implementation. With respect to Article 210.12 (B), arc-fault circuit interrupters, combination type, shall be required for all bedrooms and in all other rooms shall be optional. As for Article 334.15 (C), nonmetallic-sheathed cable shall not be required to be run through bored holes in unfinished basements and crawl spaces with less than four feet (4') and six inches (6") of clearance. And, as for Article 406.8 (B) of the 2008 edition of the NEC, the installation of listed weather-resistant type receptacles shall be optional. (Ord. #1596, Aug. 2009, modified)

**12-102. Miscellaneous.** (1) Any matters in said codes which are contrary to existing ordinances of Covington, Tennessee shall prevail and, to that extent, any existing ordinances to the contrary are hereby repealed in that respect only.

(2) Enactment of all codes shall be supplemental to any and all existing state laws regarding protection of safety, health and welfare, and nothing in this section shall be deemed to impair enforcement of any other law, ordinance or regulation on those areas.

(3) Within said codes when reference is made to the duties of a certain official named therein, that designated official of Covington, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

(4) In addition to any and all procedures for enforcement set forth in said codes, the city may proceed to enforce said codes by general nuisance law

or such other proceedings as the laws of the State of Tennessee permit.  
(Ord. #1495, March 2002)

## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS, INOPERATIVE VEHICLES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

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

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1971 Code, § 8-901)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1971 Code, § 8-904)

**13-103. 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. (1971 Code, § 8-905)

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<sup>1</sup>Municipal code references  
 Animal control: title 10.  
 Littering streets, etc.: § 16-106.

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

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

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

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

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

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

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

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

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

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

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

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

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

maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1971 Code, § 8-907)

**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. (1971 Code, § 8-908)

**13-107. Litter ordinance.** The problem of litter and the existence of unsanitary and unsightly conditions in the City of Covington has reached unacceptable proportions, thereby imposing upon the city great limitations with respect to the well-being of its citizens and its continued growth. To overcome this deficiency, the attention and effort of every city citizen is required. In furtherance of that end the board of mayor and aldermen hereby promulgates the following ordinance which establishes appropriate standards, mandates certain acts and prohibits others. This ordinance, upon passage, shall have the full force and effect of law. This ordinance shall not replace any state statutes governing the areas of litter, refuse and/or public health.

(1) **Definitions.** For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Garbage." Putrescible (that which is liable to decompose, rot or decay) animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(b) "Litter." Consists of refuse which is not contained or disposed of in accordance with the provisions of this ordinance.

(c) "Refuse." All putrescible and non-putrescible solid waste (except body waste) including, but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and market and industrial waste.

(2) **Provisions.** (a) It shall be unlawful for any person to place, leave, dump or permit to accumulate any refuse in any building or on any

property, so that same shall or may afford food or harborage for rodents, create a health hazard, or cause a public nuisance.

(b) All household refuse roll-outs shall be made in closed containers and secured in such a way as to prevent the contents from escaping therefrom and circulating freely in the environment; wet garbage shall be drained and placed in waterproof containers. Toxic or hazardous substances are prohibited from being placed in these containers.

(c) All commercial and industrial establishments shall dispose of refuse in dumpsters designated for their use in such a way that said dumpsters shall not overflow and the refuse so deposited shall not circulate freely in the environment. Cardboard and wooden boxes shall be compacted prior to disposal.

(d) The maintenance of a litter-free environment at all construction and demolition sites shall be the responsibility of the owners, contractors and subcontractors thereof. All refuse shall be removed from the site frequently enough to preclude a litter problem.

(e) All loading and unloading docks shall be maintained in such a manner as to prevent refuse from accumulating and from circulating freely in the environment. The responsibility for such maintenance shall devolve upon the owners and lessees thereof.

(f) All owners of private dwellings, or the lessees shall be responsible for seeing to the maintenance of a litter free environment in the areas immediately surrounding said dwellings up to the adjacent public street or road. Obnoxious growth shall be removed.

(g) All vacant lots shall be kept clean and free of litter by the owners or lessees thereof. Obnoxious growth shall be removed.

(h) With respect to publicly maintained dumpsters, there shall be no burning of refuse and no scavenging. Refuse shall not be deposited outside the dumpsters. If a dumpster is full, the refuse will be taken to another dumpster that is not full. Large, heavy items as well as hazardous materials and large pieces of wood are prohibited from being placed in or in the vicinity of a dumpster.

(i) Political and commercial posters or other advertisements shall not be placed upon public property or right-of-way (including utility and telephone poles). Handbills and like advertisements shall be distributed in such a manner as to prevent their circulating freely in the environment. These items will not be placed on the outside of vehicles, homes or businesses where they would create a litter hazard.

(j) All organizers of outdoor events are responsible for the rapid removal of all refuse and litter from the site thereof and shall provide appropriate refuse containers for the public's use.

(k) All city residents with special disposal problems shall be responsible for seeking the advice of the city public works director.

(l) All non-functioning vehicles on the public thoroughfare or other public area shall be removed at the owner's expense within a period not to exceed three (3) days.

(m) All parking lots shall be maintained by the owners or lessees thereof in a clean, litter-free manner.

(n) Contents within, or on, commercial and private vehicles shall be secured to prevent loss of material upon public roads, rights-of-way, or other public or private property.

(o) All persons shall insure that any refuse within their control be disposed of in proper containers or places. This will include such items as food and drink containers, tobacco items and other personal use items that could be considered litter.

(p) It shall be unlawful for any person, firm or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer or other drain within the city. This does not preclude properly prepared putrescible wastes from domestic "garbage grinders" discharging into sanitary sewers.

(q) No person shall throw or deposit litter in or upon any premises, streets, sidewalks or other public place within the city, except in public receptacles, in authorized private receptacles for collection or in the city or Tipton County landfills.

(r) If an object of litter is discovered on another's property without his permission, on any public highway, street or road, upon public parks or recreation areas, or upon any other public property except that property designated for that use, bearing a persons name, it shall be prima facie evidence that the person whose name appears on the object threw, dumped or deposited it there.

(s) For any violation of this ordinance, applicable law enforcement agencies and the Tipton County Department of Public Health shall have primary jurisdiction and are hereby authorized to issue citations for such violations.

(t) The owner, tenant or person in control of the premises will carry out the orders of applicable law enforcement agencies pertaining to this ordinance at his or their expense, or the City of Covington may carry out such clean-up or other necessary activities and charge the expense of same to the owner or lessee.

(3) Penalty. A person who violates a provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed the maximum amount permissible by law. However, the judge in his discretion may require an individual convicted of a violation of this ordinance to remove litter from public property within the city, or other appropriate locations for any prescribed period in lieu of or in addition to the penalty as provided in this section. (1971 Code, § 8-914, modified)



## CHAPTER 2

**JUNKYARDS, INOPERATIVE VEHICLES****SECTION**

13-201. Junkyards.

13-202. Inoperative vehicles on or adjacent to residential or commercial property.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such 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. (1971 Code, § 8-910)

**13-202. Inoperative vehicles on or adjacent to residential or commercial property.** It shall be unlawful for the owner or person in control of any residential or commercial lot in the city 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. (Ord. #1375, June 1995)

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

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

1. MUNICIPAL-REGIONAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. BUILDING IN FLOOD PRONE AREAS.

**CHAPTER 1****MUNICIPAL-REGIONAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.
- 14-104. Compensation.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires on April 30th of each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1971 Code, § 11-101, as amended by Ord. #1355, Aug. 1994)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1971 Code, § 11-102)

**14-103. Additional powers.** Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions

of the state law relating to regional planning commissions. (1971 Code, § 11-103)

**14-104. Compensation.** (1) The compensation for members of the planning commission, historic zoning commission and board of zoning appeals shall be twenty-five dollars (\$25.00) for each meeting attended whether designated a regular or special meeting. The mayor and/or aldermen who serve as members of the aforementioned commissions or boards shall be compensated the same as any other member.

(2) Compensation for attended meetings shall be paid on a regular basis. (Ord. #1355, Aug. 1994, modified)

**CHAPTER 2****ZONING ORDINANCE****SECTION**

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

14-202. Violations and penalty.

**14-201. Land use to be governed by zoning ordinance.** Land use within the City of Covington shall be governed by ordinance number 1591, titled "Zoning Ordinance, Covington Tennessee,"<sup>1</sup> and any amendments thereto.

**14-202. Violations and penalty.** Violations of the zoning ordinance 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.

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<sup>1</sup>The Zoning Ordinance, Covington, Tennessee and any amendments, is available in the office of the city recorder.

## CHAPTER 3

### BUILDING IN FLOOD PRONE AREAS

#### SECTION

- 14-301. Flood zone map adopted.
- 14-302. Notice required to purchasers, etc.
- 14-303. Building permit requirements.
- 14-304. Purchaser, lessee to sign acknowledgment.

**14-301. Flood zone map adopted.** The map which is incorporated herein as Exhibit "A" and entitled "Flood Zone Areas of Covington, Tennessee 2003" is hereby adopted, prominently displayed, and marked "Ordinance 1515 Map."<sup>1</sup> (Ord. #1515, July 2003)

**14-302. Notice required to purchasers, etc.** All new development or construction within the areas designated as one hundred (100) years or greater flood zones as defined by the U.S. Corps of Engineers and within flood prone areas as defined by the Covington Department of Public Works as shown on the referenced maps shall be required to give notice to all purchasers, lessees or other holders that such land and/or building within said flood zones and/or flood prone areas. (Ord. #1515, July 2003)

**14-303. Building permit requirements.** No building permits shall be issued to any and all party(ies) applying for a building permit or subdivision plat permit in said area(s) unless the party(ies) executes the written declaration as follows:

(1) I/We (all owners) hereby confirm that the land upon which a building permit or subdivision approval is sought is within the flood zone area and/or flood prone area as designated in the map entitled "Flood Zone Areas of Covington, Tennessee 2003."

(2) I/We (all owners) further confirm that we are aware that this ordinance and the law of Tennessee require me/us to disclose this information to any purchaser, lessee or any other user for monetary consideration that the said parcel or tract lies in a flood zone area and/or flood prone area.

(3) I/We further confirm that this ordinance requires me/us to give written notice to any prospective purchaser/lessee or other user for consideration in the following form:

Pursuant to City Ordinances, please be advised that the parcel or tract as follows lies within a flood zone:

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<sup>1</sup>The map is available for public inspection in the office of the director of public works.

Address or Legal Description

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Ord. #1515, July 2003)

**14-304. Purchaser, lessee to sign acknowledgment.** The purchaser/lessee or other user shall sign the following document:

I/we acknowledge that I/we have been advised that the following described parcel or tract lies within a flood zone:

Address or Legal Description

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Ord. #1515, July 2003)

**TITLE 15****MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>****CHAPTER**

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

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

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.

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<sup>1</sup>Municipal code reference

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

15-121. Bicycle riders, etc.

15-122. Rules of the Road adopted.

**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. (1971 Code, § 9-101)

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1971 Code, § 9-106)

**15-103. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1971 Code, § 9-109)

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

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

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

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

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1971 Code, § 9-110)

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

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1971 Code, § 9-111)



**15-106. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1971 Code, § 9-112)

**15-107. 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 city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1971 Code, § 9-113)

**15-108. General requirements for traffic-control signs, etc.** All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U.S. Department of Transportation, Federal Highway administration and shall, so far as practicable, be uniform as to type and location throughout the city. (1971 Code, § 114, modified)

**15-109. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1971 Code, § 9-115)

**15-110. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1971 Code, § 9-116)

**15-111. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned

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<sup>1</sup>Municipal code references

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

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. (1971 Code, § 9-117)

**15-112. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1971 Code, § 9-118)

**15-113. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1971 Code, § 9-120)

**15-114. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1971 Code, § 9-121)

**15-115. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1971 Code, § 9-122)

**15-116. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1971 Code, § 9-123)

**15-117. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1971 Code, § 9-124)

**15-118. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor

Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1971 Code, § 9-125)

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

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1971 Code, § 9-126)

**15-120. Damaging pavements.** No person shall operate or cause to be operated upon any street of the municipality 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. (1971 Code, § 9-119)

**15-121. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1971 Code, § 9-127)

**15-122. Adoption of state traffic statutes.** By the authority granted under Tennessee Code Annotated, § 16-18-302, and Tennessee Code Annotated § 55-10-307, the City of Covington adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, §§ 55-8-133 through 55-8-150, and §§ 55-8-152 through 55-8-180. Additionally, the City of Covington adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, § 55-12-139, and § 55-21-108 by reference as if fully set forth in this section.

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1971 Code, § 9-102)

**15-202. Operation of authorized emergency vehicles.** (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

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

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

(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. (1971 Code, § 9-103)

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

within the block where fire apparatus has stopped in answer to a fire alarm. (1971 Code, § 9-104)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1971 Code, § 9-105)

**CHAPTER 3****SPEED LIMITS****SECTION**

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1971 Code, § 9-201)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1971 Code, § 9-202)

**15-303. In school zones.** It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police. (1971 Code, § 9-203)

**15-304. 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 municipality. (1971 Code, § 9-204)

## CHAPTER 4

**TURNING MOVEMENTS****SECTION**

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1971 Code, § 9-301)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1971 Code, § 9-302)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two (2) roadways. (1971 Code, § 9-303)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1971 Code, § 9-304)

**15-405. U-turns.** U-turns are prohibited. (1971 Code, § 9-305)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.



## CHAPTER 5

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

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

**15-501. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto 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. (1971 Code, § 9-402)

**15-502. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1971 Code, § 9-403)

**15-503. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately fifteen hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1971 Code, § 9-404)

**15-504. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1971 Code, § 9-405)

**15-505. 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. (1971 Code, § 9-406)

**15-506. At traffic-control signals generally.** Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

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

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

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

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

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1971 Code, § 9-407)

**15-507. At flashing traffic-control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1971 Code, § 9-408)

**15-508. At pedestrian control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

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

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1971 Code, § 9-409)

**15-509. 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. (1971 Code, § 9-410)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.

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

Except as hereinafter provided, every vehicle parked upon a street within this municipality shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the ire 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. (Ord. #1550, Feb. 2006)

**15-602. Angle parking.** On those streets which have been signed or marked by the municipality for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (Ord. #1550, Feb. 2006)

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space. (Ord. #1550, Feb. 2006)

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

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen feet (15') thereof;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within fifty feet (50') of a railroad crossing;
- (7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance;
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (10) Upon any bridge;
- (11) Alongside any curb painted yellow or red by the municipality;
- (12) At any place on the public square except in those spaces designated for parking and in conformance with time restrictions as indicated by signs erected by the city;
- (13) In any area designated as a fire lane pursuant to the terms of the fire code adopted by § 7-201. (Ord. #1550, Feb. 2006)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (Ord. #1550, Feb. 2006)

**15-606. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (Ord. #1550, Feb. 2006)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment and disposition of motor vehicles.
- 15-705. Disposal of abandoned motor vehicles.

**15-701. 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 city 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. (1971 Code, § 9-601)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1971 Code, § 9-602)

**15-703. Illegal parking.**<sup>2</sup> 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 ten (10) days during the hours and at a place specified in the citation. (1971 Code, § 9-603, modified)

**15-704. Impoundment and disposition of motor vehicles.** The police department, and all members thereof assigned to traffic duty, are hereby

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<sup>1</sup>State law reference

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

<sup>2</sup>Municipal code reference

Parking: § 15-601.

authorized to remove and tow away, or have removed and towed away, from any public or private way or place, any car or other vehicle under any of the circumstances hereinafter enumerated, the board of mayor and aldermen hereby finding and determining such vehicle under such circumstances to be an obstruction to traffic or public nuisance. Such vehicle is authorized to be removed under any of the following circumstances:

(1) When any vehicle is left unattended upon any bridge, viaduct or tunnel, or where such vehicle constitutes an obstruction to traffic;

(2) When a vehicle upon a public way is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal;

(3) When any vehicle is left unattended upon a street or parked illegally so as to constitute a definite hazard or obstruction to the normal movement of traffic, or left unattended on any public street with engine running or with keys in the ignition switch or lock;

(4) When any vehicle is parked or left standing upon any area or portion of a public street in violation of or contrary to a parking limitation or prohibition established by the city, provided such area or portion of such public street has been posted with an official sign giving notice both of such limitation or prohibition and of the fact that such area or portion of such street is a "tow away" area;

(5) When a vehicle is parked in violation of any traffic ordinance and is an obstruction or hazard or potential obstruction or hazard to any lawful function or limits the normal access to a use of any public or private property;

(6) When a vehicle is left on a public way or place and appears to be abandoned within the meaning of Tennessee Code Annotated, § 55-16-103;

(7) When the driver of such vehicle is taken into custody by the police department and the vehicle would thereby be left unattended upon a street, highway or restricted parking area, or other public way;

(8) When a vehicle is found being driven upon the streets or other public way of the city and the same is not equipped with all of the necessary parts and equipment as required by law, or does not meet the standards for the parts or equipment required therein;

(9) When the driver of a vehicle is reasonably suspected of using a license plate or a license permit unlawfully, misusing the license plate or license permit issued to the driver, or a vehicle is driven or parked without proper license plates or license permit, or with no license plates or license permit, or driven or parked with an invalid or expired license permit;

(10) When the driver of a vehicle is driving without an operator's license or chauffeur's license which is current and valid, or who does not have such license in the driver's immediate possession, or who drives a vehicle contrary to restrictions imposed upon the license, or who drives a vehicle while their

operator's or chauffeur's license has been denied, suspended, canceled or revoked by the state;

(11) When a vehicle is found parked on or near to any railroad track as to block the same in any manner;

(12) When the driver of any vehicle, or the vehicle which the driver is driving, is reasonably suspected of having been involved in any hit and run accident;

(13) When any vehicle is reasonably suspected of being a stolen vehicle, or parts thereof to be stolen parts;

(14) When the driver of any vehicle is taken into custody for a suspected felony or misdemeanor, or when the vehicle is suspected of containing stolen goods, or other contraband;

(15) When a driver, owner or person in charge of a vehicle has failed to respond to a notice of illegal parking issued pursuant to the municipal code, and has also failed to respond to the additional notice sent to the registered owner as provided for under the municipal code; provided, that under the circumstances in the subsection set forth employees of the city, acting in their official capacity, and officers of the police department may, and they are hereby authorized to temporarily and for a period of seventy-two (72) hours, immobilize such vehicle by installing on, or attaching to such vehicle, a device designed to restrict the normal movement of such vehicle, and if such vehicle is so immobilized, the employee of the city or police officer so installing or attaching such device shall conspicuously affix to such vehicle a notice, in writing, on a form provided by the chief of police, advising the owner, driver or person in charge of such vehicle, that such vehicle has been immobilized by the city for violation of one (1) or more of the provisions of this chapter, and that release from such immobilization may be obtained at a designated place; that unless arrangements are made for the release of such vehicle within seventy-two (72) hours the vehicle will be removed from the streets at the direction of the employees of the city, acting in their official capacity, or by a police officer, and that removing or attempting to remove the device before a release is obtained is unlawful, and containing such information as the chief of police shall deem necessary. It shall be unlawful for any person to remove or attempt to remove any such device before a release is obtained as herein provided, or to move any such vehicle before the same is released by the police department, clerk of the city court or any city or county judge; and where such vehicle has been properly immobilized in such manner, a fee of fifty dollars (\$50.00) shall be charged by the police department or clerk of the city court before releasing such vehicle, and the parking restrictions, if any, otherwise applicable shall not apply while such vehicle is so immobilized. If the vehicle has remained immobilized for a period of seventy-two (72) hours and release has not been obtained, the police officer or employee of the city causing such immobilization shall have the vehicle impounded.



(16) When any vehicle is parked or stopped in an emergency access lane in violation of or contrary to a parking limitation or prohibition established by city ordinance, provided that such emergency access lane has been posted with an authorized sign giving notice both of such limitation or prohibition and of the fact that such area or portion of such public roadway or private property is a "tow away" area.

(17) Cars or vehicles so towed for violation of any of the above provisions shall be stored in a safe place and shall be restored to the owner or operator of such car upon payment of such fees as shall be established from time to time by resolution by the board of mayor and aldermen, and shall further pay any additional cost incurred by the towing away by any commercial towing service and any additional storage fees incurred on behalf of such commercial towing service. (Ord. #1373, May 1995, modified)

**15-705. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department or their designee in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-101 through 55-16-110. (Ord. #1373, May 1995)

## CHAPTER 8

### HEAVY TRUCKS

#### SECTION

15-801. Definition of vehicles and equipment.

15-802. Heavy truck and/or equipment prohibited on certain streets.

15-803. Signs posted.

15-804. Violations and penalty.

**15-801. Definition of vehicles and equipment.** "Vehicles and equipment" means any device in, upon, or by which any person or property is or may be transported or drawn upon street, road, highway, or public thoroughfares, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (Ord. #1532, Sept. 2004)

**15-802. Heavy truck and/or equipment prohibited on certain streets.** (1) Trucks prohibited on certain streets. It shall be unlawful to drive any truck and/or equipment except for the purpose of making a delivery on any street so designated by this chapter and properly sign posted. This provision shall apply to, as designated, streets within either commercial or residential areas.

(2) Designated streets. It is hereby established that the following streets are designated as prohibiting trucks and/or equipment except as in subsection (4)(a) through (d) below:

- (a) South Main Street;
- (b) Pleasant Street;
- (c) Liberty Street;
- (d) North Main Street;
- (e) Church Street;
- (f) Ripley Street;
- (g) Sherrod Street.

(3) Limited load streets. It shall be unlawful to operate any vehicle and/or equipment on any street so posted, including but not necessarily limited to: when the gross weight on the surface of any street through any axle of such vehicle and/or equipment exceeds twelve thousand (12,000) pounds, gross weight, or any street where the weight of the vehicle and/or equipment permitted on such street is limited by ordinance and signs indicating such limitations are posted, except for the operation of heavy trucks and/or equipment upon any street where necessary to the conduct of business at a destination point within the city or the county accessible only by traveling through the city provided streets designated as truck routes are used until reaching the intersection nearest the destination point.

(4) Exceptions. The following categories are exempt from prohibition of this section:

(a) The operation of heavy trucks and/or equipment owned or operated by the city, any contractor or material man, while under contract to the city while engaged in the repair, maintenance, or construction of streets, street improvements, or street utilities within the city.

(b) The operation of school buses and buses used to transport persons to and from a place of worship, which run a designated route.

(c) The operation of emergency vehicles and/or equipment upon any street in the city.

(d) The operation of heavy trucks and/or equipment upon any street where necessary to the conduct of business at a destination point within the city or the county accessible only by traveling through the city provided streets designated as truck routes are used until reaching the intersection nearest the destination point. (Ord. #1532, Sept. 2004)

**15-803. Signs posted.** Signs shall be posted on the entrances to each of the streets listed in § 15-802(2) indicating either by words or by appropriate symbols that heavy trucks and/or equipment are prohibited from traveling upon said streets. (Ord. #1532, Sept. 2004)

**15-804. Violations and penalty.** Any violation of this chapter shall be punishable by a fine not to exceed fifty dollars (\$50.00). (Ord. #1532, Sept. 2004)

## 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., may be cut.
- 16-102. Trees, etc., obstructing view at intersections prohibited.
- 16-103. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-104. Littering streets, alleys, or sidewalks prohibited.
- 16-105. Obstruction of drainage ditches.
- 16-106. Abutting occupants to keep sidewalks clean, etc.
- 16-107. Parades, etc., regulated.
- 16-108. Animals and vehicles on sidewalks.
- 16-109. Fires in streets, etc.

**16-101. Trees projecting over streets, etc., may be cut.** Appropriate representatives of the city are hereby authorized and empowered, whenever in their judgment it appears necessary, to cut, remove, trim, or prune any and all trees and shrubbery along any of the alleys, sidewalks, or streets in the city, whether the same be upon private property or not, which project into or over any such alley, sidewalk, or street and obstruct or interfere with any of the electric light, telephone, or telegraph wires within the limits of the city or interfere with pedestrian or vehicular traffic in any way. Such cutting, trimming, or pruning shall be done in a reasonable, careful, and prudent manner so as to interfere as little as possible with the growth and looks of such trees and shrubbery. (1971 Code, § 12-202)

**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

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<sup>1</sup>Municipal code references

Related motor vehicle and traffic regulations: title 15.

Selling merchandise, etc., from sidewalks: § 9-101.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1971 Code, § 12-203)

**16-103. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1971 Code, § 12-206)

**16-104. 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. (1971 Code, § 12-207)

**16-105. 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. (1971 Code, § 12-208)

**16-106. 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. (1971 Code, § 12-209)

**16-107. Parades, etc., regulated.** The board of mayor and aldermen builds and maintains its streets and sidewalks for the purpose of affording pedestrians a comfortable, safe, and convenient means of going from place to place in the city for the purpose of carrying out the normal, customary, and usual pursuits of everyday life. The city builds and maintains the vehicular portions of its streets for the additional purpose of affording the public in general a comfortable, safe, and convenient means for transporting persons and property from place to place in the city, principally by vehicles, for the purpose of carrying out the normal, customary, and usual pursuits of everyday life. Use of the sidewalks and streets by any person or persons for purposes other than those above set out interferes with the right of the public in general to use said sidewalks and streets for the purposes for which they were built and are maintained and is, therefore, contrary to public convenience, is conducive to public disorder, is dangerous to public safety, and is calculated to cause breaches of the peace.

Therefore, it shall be unlawful for any person, without the written permission of the board of mayor and aldermen, to conduct or participate in any parade or marching on the sidewalks or streets of the City of Covington, Tennessee, or to walk, ride, or stand in organized groups on the sidewalks or

streets while carrying banners, placards, signs, or the like, or to sit, kneel, or recline on the sidewalks or streets of the city, or to engage in public speaking, group shouting, group singing, or any other similar distracting activity on any sidewalk or streets of the city, or to assemble in groups on any sidewalk or street in such number or manner as to block or interfere with the customary and normal use thereof by the public unless the persons so assembled in such groups are engaged in watching a march or parade authorized by the provisions hereof; provided, however, that no written permission of the board of mayor and aldermen shall be required for a bona fide funeral procession en route to a cemetery or for any parade or march by any unit of the Tennessee National Guard or the United States Army, Navy, Air Force, or Marine Corps, or by personnel of the police or fire departments of the city.

Any member of the police force or any other duly authorized law enforcement official is authorized to arrest, with or without a warrant, any person violating any of the provisions of this section. (1971 Code, § 12-210)

**16-108. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1971 Code, § 12-212)

**16-109. 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. (1971 Code, § 12-213)

## 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.

**16-201. Permit required.** (1) 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.

(2) Except in an emergency, no person may excavate in a street, highway, public place, or in a private easement of a utility, or demolish a building, without having first ascertained in the manner prescribed hereinafter the location of all underground utilities in the area that would be affected by the proposed excavation or demolition.

(3) No later than August 1, 1978, the City of Covington shall file a notice with the Register of Deeds of Tipton County, Tennessee, that the city has facilities in the county, and give the name of the operator and the name, title,

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

address and telephone number of its representative, the director of public works, who is designated to receive the written or telephonic notice of intent required hereinafter in this section.

(4) Changes in filing information provided above shall be filed by the city with the Register of Deeds of Tipton County, Tennessee, within thirty (30) working days of the change.

(5) After September 1, 1978, the city shall maintain records and drawings of all changes and additions to its underground facilities.

(6) Before commencing any excavation or demolition operation designated in this section, each person responsible for such excavation or demolition shall serve written or telephonic notice of intent to excavate or demolish at least three (3), but not more than ten (10) full working days, unless a shorter period is provided between the person responsible for the excavation or demolition and the operator or designated representative, or the director of public works of the city.

(7) The written or telephonic notice required above must contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition, the starting date, anticipated duration, and type of excavation or demolition operation to be conducted, the specific location of the proposed excavation or demolition, and whether or not explosives are anticipated to be used.

(8) If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by the operator notified to document compliance with the requirements of this section, and a copy of this record shall be furnished to the person giving notice of intent to excavate or demolish if requested.

(9) The city director of public works notified as provided above shall not less than two (2) working days in advance of the proposed excavation or demolition (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the director of public works) furnish the following information to the person responsible for the excavation or demolition:

(a) The approximate location and description of all its known underground utilities which may be damaged as a result of the excavation or demolition;

(b) The location and description of all known utility workers indicating the approximate location of the underground utilities; and

(c) Any other information that would assist that person in locating and thereby avoiding damage to the underground utilities including temporary markings or maps, if required in the judgment of the director of public works, indicating the approximate location of the underground utility in locations where permanent utility markers do not exist.



(10) For the purposes of this section the approximate location of underground utilities is defined as a strip of land at least four feet (4') wide but not wider than the width of the utility plus two feet (2') on either side of the utility. If the approximate location of an underground facility is marked with temporary markers, stakes or other physical means, the public utility shall follow the color coding prescribed as follows:

<u>Utility and Type of Product</u>	<u>Identifying Color</u>
Electric power distribution and transmission	Safety red
Municipal electric systems	Safety red
Gas distribution and transmission	High visibility safety yellow
Oil distribution and transmission	High visibility safety yellow
Dangerous materials, product lines	High visibility safety yellow
Telephone and telegraph systems	Safety alert orange
Cable television	Safety alert orange
Police and fire communications	Safety alert orange
Water systems	Safety precaution blue
Sewer systems	Safety green

(11) Compliance with the notice requirements set out above is not required of persons responsible for emergency excavation or demolition, for repair or restoration of service or to ameliorate an imminent danger to life, health or property, provided, however, that such person give, as soon as practicable, oral notice of the emergency excavation or demolition to the city director of public works, where such excavation or demolition is to be performed and requests emergency assistance from the director in locating and providing immediate protection to the city's underground utilities. An imminent danger to life, health, or property exists whenever there is a substantial likelihood that loss of life, health, or property will result before the procedure provided hereinabove can be fully complied with.

(12) In addition to the notification requirements provided herein, each person responsible for any excavation or demolition shall:

- (a) Plan the excavation or demolition to avoid damage to or minimize interference with underground utilities in and near the construction area;
- (b) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment taking into

account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility; and

(c) Provide such support for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities.

(13) Except as provided below, each person responsible for any excavation or demolition operation designated above that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the director of public works of the city of the location and nature of the damage and shall allow the city reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.

(14) Each person responsible for any excavation or demolition that results in damage to an underground utility permitting the escape of any flammable, toxic, or corrosive gas or liquid, shall, immediately upon discovery of such damage, notify the city director of public works, and the police department and fire department of the city, and take any other action as may be reasonably necessary, to protect persons and property and to minimize the hazards until arrival of the city's public works personnel or the city's police and fire departments.

(15) During initial excavation, if an underground utility is found to be unsound due to deterioration, the person responsible for excavation shall immediately notify the utility company involved and shall allow the city reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.

(16) Persons responsible for excavation and demolition as designated in this section who violate any provision of this section of the Covington Municipal Code and/or Chapter No. 692 of the 1978 Public Acts of Tennessee shall be subject to a civil penalty as provided in section 12 of said public act. (1971 Code, § 12-101)

**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 to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1971 Code, § 12-102)

**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 feet (25') 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. (1971 Code, § 12-103)

**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 mayor may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city 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 city if the applicant fails to make proper restoration. (1971 Code, § 12-104)

**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. (1971 Code, § 12-105)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city 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 by such person, firm, corporation, association, or others promptly upon the completion of the work 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 city 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 city, 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. (1971 Code, § 12-106)

**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 three hundred thousand dollars (\$300,000.00) for each person and seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for any one (1) accident, and a seventy-five thousand dollar (\$75,000.00) aggregate. (1971 Code, § 12-107, 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 city if the city 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. (1971 Code, § 12-108)

**16-209. Supervision.** The superintendent of streets 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 city 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. (1971 Code, § 12-109)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') 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 feet (10') in

width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1971 Code, § 12-110)

**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.
- 17-109. Solid waste service charge.
- 17-110. Removal of cuttings, leaves, etc.
- 17-111. Deposit for sanitation service.

**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 there from and shall not be stored therewith.

"On the curbside" means in the street and "at the curbside" means on the property. (Ord. #1610-2, Nov. 2010)

**17-102. Premises to be kept clean.** All persons within the city 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. (1971 Code, § 8-102)

**17-103. Storage.** (1) Each owner, occupant, or other responsible person using or occupying any building or other premises within this city 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,

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

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 city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Waste paper, magazines, and collapsed cardboard boxes or cartons and similar matter, when not placed in a refuse container, must be securely tied in bundles and packages of such size as may be conveniently handled by one (1) man and placed alongside the refuse container for collection.

(2) (a) Due to space or access the city can require commercial businesses to share dumpsters.

(b) Commercial businesses can request to share dumpsters to decrease cost.

(c) Commercial businesses, with multiple tenants in a building, may elect to furnish a shared dumpster to their tenants. The city would bill the owner of the building.

(d) Any residential apartment in a commercial building would pay the residential rate.

(e) Any large mercantile (retail) store over thirty thousand (30,000) square feet would have the option of using a recycling contractor. (1971 Code, § 8-103, modified)

**17-104. Location of containers.** Where alleys are used by the city refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city 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. (1971 Code, § 8-104)

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1971 Code, § 8-105)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of only by city employees, or parties contracting with the city, and under the supervision of such officer as the

governing body shall designate. Collections shall be made regularly in accordance with an announced schedule. Tree trimmings, hedge clippings and similar materials not placed in a refuse container shall be collected on an announced schedule. (1971 Code, § 8-106, modified)

**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. (1971 Code, § 8-107)

**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 mayor and aldermen is expressly prohibited. (1971 Code, § 8-108)

**17-109. Solid waste service charge.** All commercial and residential solid waste disposal service charges shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance.<sup>1</sup>

**17-110. Removal of cuttings, leaves, etc.** (1) Tree stumps, trunks, limbs and roots resulting from normal maintenance and care of occupied residential property shall be removed by the city provided the following conditions are met: Each piece shall be placed on the corner of the resident's property nearest the curbside but not on any sidewalk or on curbside.

(2) Tree stumps, trunks, limbs, and roots resulting from cleaning of new ground from construction of residential or commercial structures shall be removed by and at the expense of the contractor, developer, or owner, to an area designated by the director of public works. It shall be unlawful to place and leave on any sidewalk or curbside any such material.

(3) Tree stumps, trunks, limbs and roots resulting from cleaning of by an independent contractor shall be removed by and at the expense of the contractor or owner to an area designated by the director of public works. It shall be unlawful to place or leave on any sidewalk or curbside any such material.

(4) Leaves that are raked into piles and windrows at the curbside shall be removed by the city between October 15th and February 1st. Prior to and after these dates, leaves will be removed by the city only if placed at the curbside in plastic bags or containers.

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



(5) Grass clippings and small hedge cuttings will be removed by the city only if placed at the curbside in plastic bags or containers.

(6) 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.

(7) It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (Ord. #1610-2, Nov. 2010)

**17-111. Deposit for sanitation service.** Before the sanitation department will allow sanitation pickup, the customer shall make a deposit in accordance with the published schedule for such fees. When service is terminated, the deposit shall be refunded to the customer, provided the customer's final sanitation bill has been paid in full; otherwise, the deposit shall be applied against such debt.

## TITLE 18

### WATER AND SEWERS<sup>1</sup>

#### CHAPTER

1. WATER AND SEWERS.
2. SEWAGE AND HUMAN EXCRETA DISPOSAL.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. SEWER USE ORDINANCE.

#### CHAPTER 1

### WATER AND SEWERS

#### SECTION

- 18-101. Water and sewer departments combined; separate accounting to be maintained.
- 18-102. Fluoridation of water supply.
- 18-103. Deposit for water service.
- 18-104. Water rates.
- 18-105. Deposit for sewer service.
- 18-106. Sewerage rates.
- 18-107. Surcharge to be collected on bills not paid by certain time.
- 18-108. Water tap fees outside the corporate limits.
- 18-109. Water tap fees inside the corporate limits.
- 18-110. City responsibility for water leaks.
- 18-111. Level billing plan for water and sewer customers.
- 18-112. Water and sewer main extensions.
- 18-113. Variances from and effect of preceding section as to extensions.
- 18-114. Service calls.
- 18-115. Water service lines, meters, and meter boxes.
- 18-116. Protection from damage.

**18-101. Water and sewer departments combined; separate accounting to be maintained.** The water and sewer departments of the city are hereby combined and shall hereafter be known as the public works department. The new department shall have the same responsibilities, duties, and functions that have heretofore appertained to the separate departments hereby combined.

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<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

The public works department shall have one (1) person at its head. He shall be charged with the responsibility to see that the department carries out all its required responsibilities, duties, and functions as one (1) department.

The public works department shall maintain a separate accounting for the receipts and expenditures in connection with the furnishing and sale of gas for the City of Covington, Tennessee, and for the receipts and expenditures in connection with the furnishing and sale of water and the providing of proper sewerage for the city. (1971 Code, § 13-201, modified)

**18-102. Fluoridation of water supply.** The public works department is hereby authorized and instructed to make plans for the fluoridation of the water supply of the City of Covington, Tennessee; to submit such plans to the Department of Public Health of the State of Tennessee for approval; and, upon approval, to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water fund. (1971 Code, § 13-202, modified)

**18-103. Deposit for water service.** Before the water department will turn on the water, the customer shall make a deposit in accordance with the published schedule for such fees.

When service is terminated, the deposit shall be refunded to the customer, provided the customer's final water bill has been paid in full; otherwise, the deposit shall be applied against such debt.

**18-104. Water rates.** All water service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance.<sup>1</sup>

**18-105. Deposit for sewer service.** When service is terminated, the deposit shall be refunded to the customer, provided the customer's final sewer bill has been paid in full; otherwise, the deposit shall be applied against such debt.

**18-106. Sewerage rates.** All sewer service shall be furnished under such rate schedule as the city may from time to time adopt by appropriate ordinance.

**18-107. Surcharge to be collected on bills not paid by certain time.** There shall be added to the water, sewer, and sanitation bills of each and every consumer a surcharge of five percent (5%) but if the bill of a consumer is

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

paid on or before the 15<sup>th</sup> day from the date on which due and payable, this five percent (5%) surcharge will be eliminated and such consumer will pay only the amount of bill or bills as calculated upon the base rate. (1971 Code, § 13-206, modified)

**18-108. Water tap fees outside the corporate limits.** All water tap fees outside the corporate limits shall be furnished under such rate schedule as the city may from time to time adopt by appropriate ordinance.<sup>1</sup>

**18-109. Water tap fees inside the corporate limits.** Water tap fees inside the corporate limits shall be furnished under such rate schedule as the city may from time to time adopt by appropriate ordinance.<sup>2</sup>

**18-110. City responsibility for water leaks.** (1) The City of Covington shall be responsible for the maintenance and upkeep of the service line from the main to and including the meter and meter box. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer.

(2) Leaks and breaks on private service lines on customer's private property shall be their sole responsibility. The city water department will extend its cooperation to the customer by notifying him either in person or by leaving a note on the door explaining where meter shows excessive or abnormal water usage and that a private plumber will be required to check the source of the water leak and make repairs.

(3) Customers will be billed for water that goes through the meter; however, the sewer bill may be adjusted to eliminate that estimated portion of water leak that did not go into sewer. (1971 Code, § 13-210, modified)

**18-111. Level billing plan for water and sewer customers.** Notwithstanding any other provisions of this code for billing utility customers, the City of Covington is hereby enabled to offer a level billing plan to such customers which would permit each customer to pay a fixed amount, that is, one-twelfth (1/12) of a year's estimated utility billing based on the previous twelve (12) months experience, plus any projected increase in cost. The twelfth (12<sup>th</sup>) month bill would reflect a reconciliation of the estimated and actual bill. (1971 Code, § 13-211, modified)

**18-112. Water and sewer main extensions.** Water service lines will be laid by the municipality from its main to the property lines after the payment of a connection or tap fee. The location of such lines will be determined by the

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

<sup>2</sup>Administrative ordinances are of record in the office of the city recorder.

city. The connection or tap fee shall include the setting of the meter and the meter box at the property line. Apartment buildings, row houses, trailer courts and commercial structures containing multiple offices or businesses will be served through a master meter. (1971 Code, § 13-212, as amended by Ord. #1144, Sept. 1983)

**18-113. Variances from and effect of preceding section as to extensions.** Whenever the governing body is of the opinion that it is to the best interest of the municipality and its inhabitants to construct a water and/or sewer 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 governing body.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the municipality to make such extensions or to furnish service to any person or persons. (1971 Code, § 13-213)

**18-114. Service calls.** The public works department shall respond to all complaints and inquiries relative to water, sewer, or sanitation service. (1971 Code, § 13-214, modified)

**18-115. Water service lines, meters, and meter boxes.** Water service lines will be laid by the municipality from its main to the property line after the payment of a connection or tap fee. The location of such lines will be determined by the city. The connection or tap fee shall include the setting of the meter and the meter box at the property line. Multi family dwellings, apartment buildings, row houses, trailer courts and commercial structures containing multiple offices or businesses will be served through a master meter. (1971 Code, § 13-215)

**18-116. Protection from damage.** No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, meter, valve, or other equipment which is part of the water works. Any person violating this provision shall be subject to immediate arrest under charge for disorderly conduct and/or defacing public property. (1971 Code, § 13-218, modified)

## CHAPTER 2

### SEWERAGE AND HUMAN EXCRETA DISPOSAL

#### SECTION

- 18-201. Definitions.
- 18-202. Places required to have sanitary disposal methods.
- 18-203. When a connection to the public sewer is required.
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- 18-212. Pollution of ground water prohibited.
- 18-213. Enforcement of chapter.
- 18-214. Carnivals, circuses, etc.
- 18-215. Violations.

**18-201. Definitions.** The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred feet (200') of any boundary of said property measured along the shortest available right-of-way.

(2) "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 seven hundred fifty (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 feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). 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 feet (5'). The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(3) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(4) "Human excreta." The bowel and kidney discharges of human beings.

(5) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(6) "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.

(7) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1971 Code, § 8-201)

**18-202. 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. (1971 Code, § 8-202)

**18-203. When a connection to the public sewer is required.**

(1) Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed.

(2) Upon the failure of any owner and/or occupant of any property within the City of Covington to provide and properly maintain the sewage lines to the city's sewer, it shall be the duty of the Director of Public Works of the City of Covington to serve notice on the owner and/or occupant of such property to properly provide or rehabilitate the sewage lines within thirty (30) days of the service of such notice. Such notice may be served personally on the owner and/or occupant of the property, may be mailed to the last known address of such owner and also to the occupant by registered mail, or may be posted on the property on which such unsatisfactory sewage condition exists. Service of notice by any of the above methods shall be due notice to such owner and/or occupant.

(3) Upon the failure of the owner and/or occupant to provide or rehabilitate the sewer lines upon the property described in the notice in subsection (2) hereof within thirty (30) days thereof, the director of public works and/or his agents are authorized and directed to go on to such property and to

provide or rehabilitate the sewer lines as needed, and a statement of cost thereof shall be filed with the city recorder. A lien is hereby declared on such property for all costs and expenses of providing or rehabilitating such sewer lines incurred by the department of public works.

(4) Upon receipt of the statement of costs of providing or rehabilitating the sewer lines as needed pursuant to this section, the city recorder may transmit a true copy thereof to the city attorney, who shall forthwith institute suit or take such other legal action as may be necessary to enforce the lien on such property.

(5) All uncollected costs for providing or rehabilitating the sewer lines shall be certified to the city recorder on or before December thirty-first (31<sup>st</sup>) of each year. It shall be the duty of the city recorder to collect, as a special tax, the amount so certified, at the time city taxes levied against properties on which such sewer lines are provided or rehabilitated are collected, for the year in which such expenses are incurred. (1971 Code, § 8-203, modified)

**18-204. 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. (1971 Code, § 8-204)

**18-205. 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. (1971 Code, § 8-205)

**18-206. Use of pit privy or other method of disposal.** Wherever a sanitary method of human excreta disposal is required under § 18-202 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1971 Code, § 8-206)

**18-207. 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. (1971 Code, § 8-207)

**18-208. 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 § 18-202, or the agent of the owner to provide such facilities. (1971 Code, § 8-208)

**18-209. 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. (1971 Code, § 8-209)

**18-210. 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. (1971 Code, § 8-210)

**18-211. 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. (1971 Code, § 8-211)

**18-212. 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, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1971 Code, § 8-212)

**18-213. 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, and failure to remove such menace immediately shall be punishable

under the general penalty clause for this code; but such person shall be allowed the number of days herein provided within which to make permanent correction. (1971 Code, § 8-213)

**18-214. 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. (1971 Code, § 8-214)

**18-215. 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. (1971 Code, § 8-215)

## CHAPTER 3

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Standards.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspections required.
- 18-306. Right of entry for inspections.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Violations.
- 18-311. Separability clause.
- 18-312. Repealer clause.

**18-301. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Air gap." The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

(2) "Air gap, approved." The distance of at least double the diameter of the supply piped measured vertically above the tap rim of the vessel. In no case shall the air gap be less than one inch (1").

(3) "Approved." As used herein is reference to a water supply system or backflow prevention device (or method) shall mean one that has been approved by the appropriate regulatory agency.

(4) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(5) "Backflow." The flow of any foreign liquids, gases, or substances into the distributing pipe lines of a potable supply of water from any source or sources.

(6) "Backflow prevention device." Any effective device, method, or construction used to prevent backflow into a potable water system.

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(7) "Backsiphonage." A form of backflow due to a negative or subatmospheric pressure within a system.

(8) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(9) "Consumer." The receiver of a quasi-public or public water service for the needs within the boundaries of his property. Also referred to as the owner or occupant of the premises.

(10) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, whether inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(11) "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.

(12) "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.

(13) "Public water supply." The waterworks system furnishing water to the City of Covington for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation. (1971 Code, § 8-301)

**18-302. Standards.** The Covington Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 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. (1971 Code, § 8-302)

**18-303. Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross connection, auxiliary intake, bypass, or interconnection 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 Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the Director of Public Works of the City of Covington. (1971 Code, § 8-303)

**18-304. 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 Director of Public Works of the City of Covington 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. (1971 Code, § 8-304)

**18-305. Inspections required.** It shall be the duty of the Covington Public Water Supply 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 Director of Public Works of the City of Covington and as approved by the Tennessee Department of Environment and Conservation. (1971 Code, § 8-305)

**18-306. Right of entry for inspections.** The Director of Public Works of the City of Covington or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Covington 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. (1971 Code, § 8-306)

**18-307. 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 Director of Public Works of the City of Covington. (1971 Code, § 8-307)

**18-308. Use of protective devices.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation.
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the Director of Public Works of the City of Covington 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 Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Director of Public Works of the City of Covington prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

The department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the director of public works or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

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 director of public works 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 water system shall require the occupant of the premises to make all repairs indicated promptly, 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 Director of Public Works of the City of Covington. (1971 Code, § 8-308)

**18-309. 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 (1) inch high located on a red background. (1971 Code, § 8-309)

**18-310. Violations.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties, the director of public works of the City of Covington shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, bypass, or inter-connection, and service shall not be restored until such cross connection has been discontinued. (1971 Code, § 8-310, modified)

**18-311. Separability clause.** That, should any part, or parts, of this chapter be declared invalid for any reason, no other part, or parts, of this chapter shall be affected thereby. (1971 Code, § 8-311)

**18-312. Repealer clause.** That all ordinances and parts of ordinances in conflict with this chapter shall be hereby repealed; and that the ordinance comprising this chapter shall take effect from and after its passage, the welfare of the corporation demanding it. (1971 Code, § 8-312)

**CHAPTER 4****SEWER USE ORDINANCE****SECTION**

- 18-401. General provisions.
- 18-402. Definitions.
- 18-403. Connection to public sewers.
- 18-404. Private domestic wastewater disposal.
- 18-405. Regulation of holding tank waste disposal.
- 18-406. Applications for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-407. Discharge regulations.
- 18-408. Industrial user monitoring, inspection reports, records access and safety.
- 18-409. Enforcement and abatement.
- 18-410. Penalty; costs.
- 18-411. Fees and billing.
- 18-412. Validity.
- 18-413. Ordinance in force.

**18-401. General provisions.** (1) Purpose and policy. This ordinance is to set forth uniform requirements for users of the City of Covington's wastewater collection system and treatment works to enable the city to comply with the provisions of the Clean Water Act and other applicable federal and state laws and regulations and to provide for the public health and welfare by regulating the quality and quantity of wastewater discharged into the city's wastewater collection system and treatment works. The objectives of this ordinance are:

- (a) To protect the public health;
- (b) To provide problem free wastewater collection and treatment service;
- (c) To prevent the introduction of pollutants into the municipal wastewater treatment system which will interfere with the system operation, will cause the city's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements or will cause physical damage to the wastewater treatment facilities;
- (d) To provide for full and equitable distribution of the cost of wastewater treatment and collection;
- (e) To enable the City of Covington to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 C.F.R. part 403), and other federal and state laws and regulations;



(f) To improve the opportunity to recycle and reclaim wastewater and sludges from the wastewater treatment system.

In meeting these objectives, this ordinance provides that all persons in the service area of the City of Covington must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The ordinance also provides for the issuance of permits to system users, for the regulation of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. This ordinance shall apply to the City of Covington, Tennessee, and to persons outside the city who are, by contract or agreement with the city, users of municipal wastewater treatment system. Except as otherwise provided herein, the Director of Public Works of the City of Covington shall administer, implement, and enforce the provisions of this ordinance. (Ord. #1609, Aug. 2012)

**18-402. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meaning hereinafter designated:

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

(2) "Approval authority." The 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 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 laboratory procedure, five (5) days at twenty degrees (20°) centigrade expressed in terms of weight and concentration (milligrams per liter--mgl).

(5) "Building drain." The building drain is that part of the lowest piping of a drainage system which receives the discharge from soil, waste and

other drainage pipes inside the walls of the building and conveys it to the building sewer three feet (3') outside the building wall.

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

(7) "Categorical standards." National categorical pretreatment standards or pretreatment standard.

(8) "City." The City of Covington or the Board of Mayor and Aldermen for the City of Covington, Tennessee.

(9) "Compatible pollutant" shall mean BOD, suspended solids, pH, and fecal coliform bacteria, and such additional pollutants as are now, or may be in the future, specified and controlled in this city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

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

(11) "Control authority" refers to the WWF with an approved pretreatment program or the approval authority if the WWF does not have an approved pretreatment program.

(12) "Customer" means any individual, partnership, corporation, association, or group who receives sewer service from the city, under either an express or implied contract requiring payment to the city for such service.

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

(14) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

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

(16) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(17) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and without consideration of time.

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

(19) "Incompatible pollutant" shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

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

(21) "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 U.S.C. 1342).

(22) "Interference." A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or the collection system.

(23) "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 U.S.C. 1347) which applies to a specific category of industrial users.

(24) "National Pollutant Discharge Elimination System (NPDES)" shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act as amended.

(25) "New source" (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(26) "Person." Any individual, partnership, corporation, firm, company, 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 single shall include the plural where indicated by the context.

(27) "Pass through." A discharge which exits the WWF into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit (including an increase in the magnitude or duration of a violation).

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

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

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

(31) "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 or by other means, except as prohibited by 40 C.F.R. section 403.6(d).

(32) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

(33) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. 1291) which is owned in this instance by the city. 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 ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

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

(35) "Shall" is mandatory; "May" is permissive.

(36) "Significant industrial user." All industrial users subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. chapter I, subchapter N; and any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 C.F.R. 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(37) "Slug." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-407(1) of this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(38) "State." State of Tennessee.

(39) "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.

(40) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(41) "Storm sewer" or "storm drain" shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon arrival of the director of public works.

(42) "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 filtration.

(43) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of (33 U.S.C. 1317).

(44) "Twenty-four (24) hour flow proportional composite sample." A sampling consisting of several effluent portions collected during a twenty-four (24) hour period in which the proportions of sample are proportionate to the flow and combine to form a representative sample.

(45) "Unpolluted water." Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the State of Tennessee or the Environmental Protection Agency, having the jurisdiction thereof for disposal to storm or natural drainage or directly to surface waters.

(46) "User." Any person, firm, corporation or governmental entity that discharges, causes, or permits the discharge of wastewater into the POTW.

(47) "Waste." Includes sewage and any and all other waste substances liquid solid, gaseous or radioactive associated with human habitation or human or animal origin from any producing, manufacturing, or processing operation of whatever nature, including such waste placed in container of whatever nature prior to and for the purpose of disposal.

(48) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwelling, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(49) "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. (Ord. #1609, Aug. 2012)

**18-403. Connection to public sewers.** (1) Requirements for proper wastewater disposal.

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Covington, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge into any waters of the state within the service area of the City of Covington any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and appropriate state and federal regulations.

(c) 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 sewage.

(d) Except as provided in subsection (e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the 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 an accessible public sanitary sewer in the service area, 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 ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred feet (100') of the building drain as defined herein.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains approval from the city and that he obtains an NPDES permit; and meets all requirements of the Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of subsection (d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-404 of this ordinance.

(2) Physical connection to public sewer. (a) 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 from the director of public works as required by § 18-406 of this ordinance.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building, except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway; the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the director of public works, to meet all requirements of this ordinance. All others must be sealed to the specifications of the director of public works.

- (e) Building sewers shall conform to the following requirements:
- (i) The minimum size of a building sewer shall be four inches (4").
  - (ii) The minimum depth of a building sewer shall be eighteen inches (18").
  - (iii) The building sewer shall have the following minimum grade:
    - (A) 1.2% 4"
    - (B) .6% 6"
    - (C) .4% 8"
  - (iv) Slope and alignment of all building sewers shall be neat and regular.
  - (v) Building sewers shall be constructed only of:
    - (A) Concrete or clay sewer pipe using rubber neoprene compression joints of approved type;
    - (B) Cast iron soil pipe with leaded or compression joints;
    - (C) Polyvinyl chloride pipe with solvent welded or with rubber compression joints;
    - (D) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or
    - (E) Such other materials of equal or superior quality as may be approved by the director of public works.
  - (vi) A clean out shall be located five feet (5') outside of the building, one as it taps on to the utility lateral and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional clean outs shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of our four inch (4") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Clean outs shall be extended to or above the finished grade level directly above the place where the clean out is installed. A combination Y and 1/8-bend shall be used for the clean out base. Clean outs shall not be smaller than four inches (4") on a four inch (4") pipe.
  - (vii) Connections of building sewers to the public sewer system shall be made at the appropriate existing Wy or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing Wy or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a Wy or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the director of public works. All such connections shall be made gas tight and water tight.



(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one eighth inch (1/8") per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the director of public works before installation.

(x) An installed building sewer shall be gas tight and water tight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights to 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 city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered by the director of public works or his authorized representative.

(b) The applicant for discharge shall notify the director of public works when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the director of public works or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the

building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the director of public works to meet specifications of the city. (Ord. #1609, Aug. 2012)

**18-404. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available as defined under the provisions of this ordinance, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to one eighth inch (1/8") per foot in the building sewer but is otherwise accessible to a public sewer as defined in this ordinance, the owner shall provide a private sewage pumping station in accordance with the directions of the director of public works.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within ninety (90) days after date of official notice to do so.

(2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the director of public works stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the director of public works and/or the Tipton County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the director of public works and/or the Tipton County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Tipton County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Tipton County Health Department when work is ready for final inspection, and before any underground portions are covered.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Tennessee and the Tipton County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(f) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Tipton County Health Department. (Ord. #1609, Aug. 2012)

**18-405. Regulation of holding tank waste disposal. Permit.** No person, firm, association, or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excrete disposal system into the City of Covington's wastewater collection system and treatment works. Any user found to have violated this regulation shall be subject to penalties as described in § 18-410 of this chapter. (Ord. #1609, Aug. 2012)

**18-406. Applications for domestic wastewater discharge and industrial wastewater discharge permits.** (1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the director of public works for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new discharges as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the director of public works, the building sewer is installed in accordance with § 18-403 of this ordinance and an inspection has been performed by the director of public works or his representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this ordinance and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers for additional services may be granted by the director of public works for interim periods if compliance may be assured within a reasonable period of time.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing users connected to or contributing to the POTW at the time this ordinance takes effect are required to make application and to obtain a discharge permit within ninety (90) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the director of public works application in the form prescribed by the director of public works, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within sixty (60) days after

the effective date of this ordinance, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: wastewater volume; wastewater constituents and characteristics; discharge variations and peaks; a description of all toxic materials handled on the premises; a drawing to approximate scale showing plan of property, water distribution system and sewer layout; a description of existing and proposed pretreatment and/or equalization facilities, and any other information deemed necessary by the director of public works.

(iii) Any user who elects to or is required to construct new or additional facilities for pretreatment of their wastewater shall as part of the application for wastewater permit, submit plans, specifications, and other pertinent design information relative to the proposed construction to the director of public works for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee and shall be supported by any design information necessary to determine the effectiveness of the proposed facilities. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this ordinance.

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include 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 or the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this ordinance.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this

ordinance or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The director of public works will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the director of public works that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended periods as allowed by the director of public works, the director of public works shall submit the application to the mayor with a recommendation that it be denied and notify the applicant in writing of such action.

(c) The wastewater discharge permits shall be expressly subject to all provisions of this ordinance and to other applicable regulations, user charges, and fees established by the city. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(ii) Limits on the average and maximum wastewater constituents and characteristics;

(iii) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(iv) Requirements for installation and maintenance of inspection and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedules;

(vi) Compliance schedules;

(vii) Requirements for submission of technical reports of discharge reports;

(viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(ix) Requirements for notification of the city 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;

(x) Requirements for notification of slug discharged;

(xi) Requirements to control slug discharges, if determined by the WWF to be necessary;

(xii) Other conditions as deemed appropriate by the city to ensure compliance with this ordinance;

(xiii) Applicable civil and criminal penalties.

(d) 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. A user with an existing wastewater discharge permit shall submit to the director of public works within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 18-406(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the director of public works during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this 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.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) 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 re-issuance a minimum of ninety (90) days prior to the expiration date of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to 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 city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of this ordinance is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any term or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire permit application, permits and monitoring programs and from inspections shall be available to the public or any other

governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the director of public works 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 the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this ordinance or the city's or user's NPDES permit. Provided, however, that such portions of 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 director of public works as confidential shall not be transmitted to any governmental agency or to the general public by the director of public works until and unless prior and adequate notification is given to the user. (Ord. #1609, Aug. 2012)

**18-407. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which causes pass through or 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:

(a) 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 (2) 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 percent (5%) nor any single reading over ten percent (10%) 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.

(b) 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 inch (1/2") in any dimension, 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.

(c) Any wastewater having a pH less than 5.0 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds 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.

(e) 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.

(f) Any substance which may cause the POTW's effluent to exceed the limitations imposed by the NPDES permit or any other product of the POTW such as sludges, residues, or scums, to be unsuitable for the reclamation and reuse or to interfere with the reclamation process. In no case shall a substance be 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 regulation 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.

(g) Any substance which would cause the POTW to violate its NPDES permit or the receiving water quality.

(h) Any wastewater causing discoloration of the treatment plant effluent to the extent that the receiving water quality requirements would be violated, such as, but not limited to dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which exceeds forty degrees (40°) C.

(j) Any pollutants, including oxygen demanding pollutants (BOD) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting a "slug" as defined.



(l) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director of public works in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human health or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

(o) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the director of public works and the Tennessee Department of Public Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the director of public works and the Tennessee Department of Public Health, to a storm sewer or natural outlet.

(p) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty (140) degrees F or sixty (60) degrees C.

(q) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(r) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(s) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the local limits established by the City of Covington. An exception is permitted as provided in this ordinance. Dilution of any wastewater discharge by the user for the purpose of satisfying these requirements shall be considered a violation of this ordinance. Local limit values are recalculated from time to time and are available through the pretreatment program coordinator.

(3) Protection of treatment plant influent. The director of public works shall monitor the treatment works influent for parameters listed and treatment plant protection table. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in that table. In the event that the influent at the POTW reaches or exceeds the levels

established by this table, the director of public works shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The director of public works shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW. Treatment plant protection criteria values are recalculated from time to time and are available through the pretreatment program coordinator.

(4) 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 ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this ordinance. The director of public works shall notify all affected users of the applicable reporting requirements under 40 C.F.R., section 403.12.

(5) Right to establish more restrictive criteria. No statement in this ordinance is intended or may be construed to prohibit the director of public works from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or the pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Public Health and/or the United States Environmental Protection Agency.

(6) Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the city and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the city and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit.

(7) Exceptions to discharge criteria. (a) Application for exception. Non-residential users of the POTW may apply for temporary exception to the prohibited and restricted wastewater discharge criteria listed in § 18-407(1) and (2) of this ordinance. Exceptions can be granted according to the following guidelines:

The director of public works shall allow applications for temporary exceptions at any time. However, the director of public works shall not

accept any application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the city. All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the city in its review of the application.

(b) Conditions. All exceptions granted under this subsection shall be temporary and subject to revocation at any time by the director of public works upon reasonable notice. The user requesting the exception must demonstrate to the director of public works that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that the compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if exempted, will not:

(i) Interfere with normal collection and operation of the wastewater treatment system.

(ii) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management.

(iii) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its in-force federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this ordinance based on the average daily flow of the user.

(c) Review of application by the director of public works. All applications for an exception shall be reviewed by the director of public works. If the application does not contain sufficient information for complete evaluation, the director of public works shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the director of public works to correct such deficiencies. This thirty (30) day period may be extended by the city upon application and for just cause shown. The permit shall be issued by the director of public works. The applicant has the right to appeal the conditions of the permit to the city council.

(d) Criteria for application review. The director of public works shall review and evaluate all applications for exceptions and shall take into account the following factors:

(i) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in section 307 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(ii) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(iii) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works;

(iv) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception;

(v) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(vi) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

(vii) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(8) Accidental discharge. (a) All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this ordinance from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills or other accidental discharge of waste regulated by this ordinance shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge charge of

prohibited shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the director of public works for review, and shall be approved by the director of public works before the facility is constructed.

(b) Notification of accidental discharge. Any person causing or suffering from accidental discharge shall immediately notify the director of public works (or his designated official) by telephone to enable countermeasures to be taken by the director of public works to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge of the measures being taken to prevent future occurrence. Such notification will not relieve the user of liability for any expense loss, or damage to the POTW, fish kills, or 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 ordinance or state or federal law.

(c) 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.

(9) Hazardous waste notification. (a) The industrial user shall notify the director of public works, in writing, of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste as set forth under 40 C.F.R. part 261. Such notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the waste; an estimation of the mass and concentration of such concentration of such constituents in the wastestream discharged during that calendar month; and an estimation of the mass of constituents in the wastestream expected to be discharged during the next twelve (12) months. All notifications must take place within one hundred (100) days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this section need be submitted only once for each hazardous waste discharged.

(b) Dischargers are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 61.30(d) and 261.33(e). Discharges of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes, requires a one (1) time notification. Subsequent months during which the industrial user discharge more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste the industrial user must notify the director of public works of the discharges of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. #1609, Aug. 2012)

**18-408. Industrial user monitoring, inspection reports, records, access and safety.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, otherwise altered or regulated before discharge, or are usually strong and thereby subject to a surcharge or contained parameters which may cause damage or upsets to the POTW and for which specific limits have been set in a discharge permit. Monitoring facilities shall include a manhole and other specific facilities as approved and required by the director of public works. When, in the judgment of the director of public works, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the director of public works may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facility will normally be required to be installed, and shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the director of public works, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The director of public works may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way 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 monitoring facilities shall be constructed in accordance with the director of public works' requirements and all applicable local agency construction standards and specifications. When, in the judgment of the director of public works, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within one hundred eighty (180) days following written notification unless an extension is granted by the director of public works.

(2) Inspection sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city 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 city, approval authority and 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 city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. The director of public works or his representatives shall have no authority to inquire into any manufacturing process beyond the point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment. The city, approval authority and the EPA has the right to copy records pursuant to Tennessee Rule 1200-4-14-.12(15)(b).

(3) Compliance data report. Within one hundred eighty (180) 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, and user subject to pretreatment standards and requirements shall submit to the director of public works a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards or requirements and the average and maximum daily flow for these process units in the user facility which 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 by a qualified professional.

(4) Periodic compliance reports. (a) 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 director of public works a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the director of public works and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director of public works may agree to alter the months during which the above reports are to be submitted.

(b) The director of public works may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentrations, or production and mass where required by the director of public works, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit of the 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 C.F.R., part 136 and amendments thereto or with any other test procedures approved by the director of public works. Sampling shall be performed in accordance with the techniques approved by the director of public works.

(d) If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation. Where the control authority has performed the sampling and analyses in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Re-sampling is not required if:

(i) The control authority performs sampling at the industrial user at a frequency of at least once per month; or

(ii) The control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.



(e) The reports required in this section must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The control authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 C.F.R. part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organic and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(f) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For the reports required in this section, the control authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(g) Signatory requirements for industrial user reports. The manager of one (1) or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control

mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(h) All monitoring data obtained by the user must be submitted to the control authority.

(i) Reporting requirements for industrial users upon effective date of categorical pretreatment standard—baseline report. Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 1200-4-14-.06(1)(d), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a WWF shall be required to submit to the control authority a report which contains the information listed in subsections (a)–(g) of this section. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the control authority a report which contains the information listed in subsections (a)–(e) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (d) and (e) of this section:

(i) Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners;

(ii) Permits. The user shall submit a list of any environmental control permits held by or for the facility;

(iii) Description of operations. The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the WWF from each of the following:

(A) Regulated process streams; and

(B) Other streams as necessary to allow use of the combined wastestream formula of 1200-4-14-.06(5). (See subsection (e)(iv) of this section.) The control authority may

allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(e) Measurement of pollutants. (i) The user shall identify the pretreatment standards applicable to each regulated process;

(ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard;

(iii) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this section.

(iv) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 1200-4-14.06(5) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 1200-4-14-06(5) this adjusted limit along with supporting data shall be submitted to the control authority;

(v) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto. Where 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the WWF or other parties, approved by the administrator;

(vi) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(vii) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(f) Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in subsection (12) of this rule) and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and

(g) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

(i) Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (1200-4-14-.07), the combined wastestream formula (1200-4-140.06(5)), and/or a fundamentally different factors variance (1200-4-14-.13) at the time the user submits the report required by paragraph (2) of this rule, the information required by subsections (f) and (g) of this section shall pertain to the modified limits.

(ii) If the categorical pretreatment standard is modified by a removal allowance (1200-4-14-.07), the combined wastestream formula (1200-4-14-.13) after the user submits the report required by paragraph (2) of this rule, any necessary amendments to the information requested by subsections (f) and (g) of this section shall be submitted by the user to the control authority within sixty (60) days after the modified limit is approved.

(h) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this rule shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting

false information, including the possibility of fine and imprisonment for knowing violations.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of each analysis.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for the inspection and copying by the director of public works, Director of the Division of Water Quality Control, Tennessee Department of Public Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the director of public works, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the director of public works or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the user and the user shall be held harmless for injury or death to the city employees and the city shall indemnify the user against loss or damage to his property by city employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the user to maintain safe conditions.

(7) Slug discharges. The POTW shall evaluate whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional significant industrial users must be evaluated within twelve (12) months of being designated a significant industrial user. For purposes of this part, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the WWF's regulations, local limits or permit conditions. The results of such activities shall be available to the

approval authority upon request. Significant industrial users are required to notify the WWF immediately of any changes at its facility affecting potential for a slug discharge. If the WWF decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the WWF of slug discharges, including any discharge that would violate a prohibition under 1200-4-14-.05(2), with procedures for follow-up written notification within five (5) days;
- (d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. (Ord. #1609, Aug. 2012)

**18-409. Enforcement and abatement.** (1) Issuance of cease and desist orders. When the director of public works finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this ordinance, or the provisions of a wastewater discharge permit, the director of public works shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits, requirements, or provisions to:

- (a) Comply forthwith;
- (b) Comply in accordance with a time schedule set forth by the director of public works;
- (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (d) Surrender his applicable user's permit if ordered to do so after a show cause hearing.

(2) Submission of time schedule. When the director of public works find that a discharge finds that a discharge has been taking place in violation of prohibitions or limitations prescribed in this ordinance, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a wastewater discharge permit, the director of public works shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the director of public works within thirty (30) days of the issuance of the cease and desist order.

- (3) Show cause hearing. (a) The director of public works may order any user who causes or allows an unauthorized discharge to enter the POTW

to show cause before the board of mayor and alderman 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 city board 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 city board 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.

(b) The board of mayor and aldermen may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the (assigned department) to:

(i) Issue in the name of the board of mayor and aldermen notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereon.

(c) At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded. 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.

(d) After the board of mayor and aldermen 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, and that devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewer, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this ordinance, federal, or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in the chancery circuit court of this county.

(5) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the director of public works presents or may present an eminent substantial endangerment to the health or welfare of persons or cause interference with the POTW, the director of public works or in his absence the person then in charge of the treatment works shall immediately notify the mayor of the nature of the emergency. The director of public works shall also attempt to notify the

industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned officials of the city or in their absence such elected officials of the city as may be available, the director of public works shall temporarily terminate the service of such users or users as are necessary to abate the condition when such appears reasonably necessary. Such service shall be restored by the director of public works as soon as the emergency situation has been abated or corrected.

(6) Public nuisance. Discharges of wastewater in any manner in violation of this ordinance or of any order issued by the director of public works as authorized by this ordinance, is hereby declared a public nuisance and shall be corrected or abated as directed by the director of public works. Any such nuisance shall be punishable under the general penalty clause of this ordinance and applicable state or federal law.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this ordinance the director of public works is authorized to take appropriate action necessary to correct a violation hereof if the user is unable or refuses to take such action. The cost of such correction shall be added to any sewer use charge payable by the user violating the ordinance or the owner or tenant of the property upon which the violation occurred, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer use charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the director shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this ordinance, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard shall be liable civilly.

The City of Covington may sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any.

(10) Public noncompliance notification. The director of the public works shall provide for, at least annually, public notification, in the largest local newspaper, of industrial users, which, at any time during the previous twelve (12) months were in significant noncompliance with applicable pretreatment requirements. For the purpose of this provision, an industrial user is in significant noncompliance if its violation meets one (1) or more of the following criteria:



(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirements, including instantaneous limits, as defined by 1200-4-14-.03(1);

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 1200-4-14-.03(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required by this rule.

(c) Any other violation of a pretreatment standard or requirement as defined by 1200-4-14-.03 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under subpart (6)(a)(6)(ii) of this rule to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations, which may include a violation of best management practices, which the director of public works determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. #1609, Aug. 2012)

**18-410. Penalty: costs.** (1) Civil penalties. Any user who is found to have violated an order of the board of mayor and aldermen or who willfully or negligently failed to comply with any provision of this ordinance, and the order, rules, regulations and permits issued hereunder, shall be fined not less than one thousand dollars (\$1,000.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to

the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.

(2) 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 ordinance, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurately any monitoring device or method required under this ordinance, shall, upon conviction be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or both. (Ord. #1609, Aug. 2012)

**18-411. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from the users of the city's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees established in the city's schedule of charges and fees, may include, but not be limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and
- (g) Other fees as the city may deem necessary to carry out the

requirements of this ordinance.

(3) Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-405 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the board of mayor and aldermen.

(5) Sewer use charge. (a) Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the users contribution of wastewater loads; each class user being identified as follows:

- (i) Class I: Those users whose average biochemical oxygen demand is two hundred three milligrams per liter (203

mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

(ii) Class II: Those users whose average biochemical oxygen demands exceeds two hundred three milligrams per liter concentration (203 mg/l) by weight or whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l).

(b) Determination of costs. The board of mayor and aldermen shall establish rates and charges for the use of the wastewater system. Said charges shall be based upon the costs categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.

(i) In accordance with § 18-105 of this code, all users who fall under Class I shall pay a base charge depending on the size of the water meter, volume of effluent will be used to determine meter size for billing. The charge per one thousand (1,000) gallons will be determined in accordance with the following formula:

$$C_i = \frac{T.S.C.}{V}$$

Where:

$C_i$  = the Class I charge per 1,000 gallons expressed in dollars.

T.S.C. = the total operation and maintenance, and debt service determined by yearly budget projections less any base charge and other income.

V = the total volume of wastewater contribution from all users per year as determined from projections from one (1) city fiscal year to the next.

(ii) All users who fall within the Class II classification shall pay the same base unit charge per one thousand (1,000) gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(iii) The volume of water purchased which is under in the calculation of sewer use charges may be adjusted by the director of public works if a user purchases a significant volume of water for a consumptive use and does not discharge it to the public sewers

(i.e. filling swimming pools, industrial heating, and humidifying equipment, etc.).

(7) Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) **Billing.** The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the city, subject to net and gross rates. (Ord. #1609, Aug. 2012)

**18-412. Validity.** (1) All ordinances or parts of ordinances in conflict herewith are hereby repealed. All ordinances not in conflict remain in effect.

(2) The validity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

(3) This ordinance and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Covington, Tennessee. (Ord. #1609, Aug. 2012)

**18-413. Ordinance in force.** This ordinance will take effect from and after its passage on third and final reading, the public welfare requiring it. (Ord. #1609, Aug. 2012)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

1. ELECTRICITY.
2. NATURAL GAS REGULATIONS.

**CHAPTER 1**

**ELECTRICITY<sup>1</sup>**

**SECTION**

- 19-101. Board of public utilities established; purpose, powers, and duties; membership.
- 19-102. Qualifications of board members.
- 19-103. Appointment of board members.
- 19-104. Members to serve staggered terms.
- 19-105. Members terms to begin on July 1.
- 19-106. Aldermen members' term.
- 19-107. Member to serve until election of successors.
- 19-108. Appointments to fill unexpired terms.
- 19-109. Board members to take oath; bond.
- 19-110. Compensation of members and officers.
- 19-111. Removal of board members.
- 19-112. Time of regular monthly meetings.
- 19-113. Chairman to be elected from members.
- 19-114. Quorum and votes required for action.
- 19-115. Duties of secretary/treasurer; signatures required for checks; bonds of officers.
- 19-116. Records and reports of board.
- 19-117. Minutes, by-laws, rules and regulations.
- 19-118. Adoption and/or revision of by-laws, rules and regulations.
- 19-119. Annual audit.
- 19-120. Board's general rights, powers and duties.
- 19-121. Superintendent to be appointed; compensation; term.
- 19-122. Powers of superintendent.
- 19-123. Superintendent's general rights, powers and duties.
- 19-124. Appointment of additional members.

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<sup>1</sup>Municipal code reference  
Electrical code: title 12.

**19-101. Board of public utilities established; purpose, powers, and duties; membership.** (1) A board of public utilities is hereby constituted and established for the purpose of taking and having supervision and control of the improvement, operation, and supervision and control of the improvement, operation, and maintenance of the electric plant for the City of Covington. The board shall be the supervisory body of the plant and shall have all the powers and duties which are, or shall be, conferred upon such board by the laws of Tennessee, including, but not limited to, the provisions of the Municipal Electric Plant Act, the same being chapter 32 of the Public Acts of the General Assembly of 1935 as set forth in Tennessee Code Annotated (orig. ed.), § 6-1502. The term "electric plant" shall be understood as defined in subsection B (of section 2 of said Act). The initial board hereby constituted shall consist of two (2) members with fixed terms. One (1) member of the board of mayor and aldermen shall serve as a third member of the board of public utilities.

(2) The first board shall be as follows: F.W. McBride, whose term begins July 1, 1958, and expires July 1, 1960. Hays E. Owen, Jr., whose term begins July 1, 1958, and expires July 1, 1962. P.A. Turner, is appointed from the board of aldermen, and his term begins July 1, 1958, and expires at the expiration of his term of office.

(3) The first meeting of the board of public utilities shall be held at the City Hall, in Covington, Tennessee, within ten (10) days after the appointment and qualification of members, with the purpose of the members taking the oath of office, electing a chairman who will serve as chairman until the expiration of his term of office, designating a secretary/treasurer and fixing his compensation, adopting by-laws, and any other business which may come before the board. (Ord. #1345, Feb. 1994)

**19-102. Qualifications of board members.** No one shall be eligible for membership on the board of public utilities unless he owns property in the corporate limits of the City of Covington, Tennessee, has been a resident of this city for not less than one (1) year preceding the date of his appointment and has not been a regular compensated officer or employee of the city for at least one (1) year preceding the date of his appointment. (Ord. #1345, Feb. 1994)

**19-103. Appointment of board members.** The members of the board shall be appointed by the Mayor of the City of Covington and approved by the board of mayor and aldermen. (Ord. #1345, Feb. 1994)

**19-104. Members to serve staggered terms.** Unless otherwise provided in this chapter, the successor to each retiring member of the board of public utilities shall be appointed at the last regular meeting at the board of mayor and aldermen in June of each year preceding the expiration of the term of such member. Each member, exclusive of the member elected from the board

of mayor and aldermen shall serve for a term of four (4) years. (Ord. #1345, Feb. 1994)

**19-105. Members terms to begin on July 1.** The term of office shall be from July 1 after the appointment at the last regular meeting of the board of mayor and aldermen in June. (Ord. #1345, Feb. 1994)

**19-106. Aldermen members' term.** The term of office of the member elected from the board of mayor and aldermen shall be for such time as the appointing officer may fix, but in no event to extend beyond his term of office in such governing body. (Ord. #1345, Feb. 1994)

**19-107. Member to serve until election of successors.** Members of the board of public utilities shall continue in office until their successors are elected. (Ord. #1345, Feb. 1994)

**19-108. Appointments to fill unexpired terms.** Appointments to complete unexpired terms of office shall be made in the same manner as are original appointments. (Ord. #1345, Feb. 1994)

**19-109. Board members to take oath; bond.** Each member of the board of public utilities shall qualify by taking the oath of office as required to be taken by members of the Board of Mayor and Aldermen of the City of Covington, and unless otherwise set forth in this chapter shall serve without bond. (Ord. #1345, Feb. 1994)

**19-110. Compensation of members and officers.** All members of the board shall serve as such without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of the board, including an allowance of not to exceed two hundred dollars (\$200.00) per month for attendance at meetings. Such expenses, as well as the salaries of the secretary/treasurer, shall constitute a cost of operation and maintenance of the electric plant. (Ord. #1345, Feb. 1994, modified)

**19-111. Removal of board members.** Any member of the board may be removed from office for cause upon a vote of three-fourths (3/4) of the members of the board of mayor and aldermen, but only after preferment of formal charges by resolution of a majority of the members of such governing body at a public hearing before such governing body. (Ord. #1345, Feb. 1994, modified)

**19-112. Time of regular monthly meetings.** The board of public utilities shall meet each month on the fourth Monday of each month at the office of the board of public utilities in Covington, Tennessee, or at such other time

and place as all members of the board may agree upon. (Ord. #1345, Feb. 1994, modified)

**19-113. Chairman to be elected from members.** The chairman's term shall be for four (4) years or until his term expires. (Ord. #1345, Feb. 1994, modified)

**19-114. Quorum and votes required for action.** A majority of the board shall constitute a quorum and the board shall act by vote of a majority present at any meeting attended by a quorum. Vacancies in the board shall not affect its power and authority so long as a quorum remains. (Ord. #1345, Feb. 1994)

**19-115. Duties of secretary/treasurer; signatures required for checks; bonds of officers.** The secretary/treasurer of the board of public utilities shall be the accountant of the board of public utilities and the Covington Electric System. The secretary/treasurer will sign and the superintendent will counter sign all checks. In the absence of either of these people, the chairman of the board will sign or counter sign. The secretary/treasurer, the superintendent, and the chairman of the board shall be bonded in such amounts as the board deems necessary. (Ord. #1345, Feb. 1994)

**19-116. Records and reports of board.** (1) The board shall keep a complete and accurate record of meetings and actions taken, and of all receipts and disbursements, and shall make reports of the same to the Board of Mayor and Aldermen of the City of Covington.

(2) Such reports shall be in writing, and shall be filed in an open meeting of the board of mayor and aldermen at stated intervals, not to exceed one (1) year. A copy shall also be filed with the recorder/treasurer of the City of Covington. (Ord. #1345, Feb. 1994)

**19-117. Minutes, by-laws, rules and regulations.** Minutes, by-laws, rules and regulations shall be kept in the minute book which shall remain in the custody of the secretary/treasurer or in the offices of the board of public utilities or the Covington Electric System, or such other place as the board may direct. It shall, at all times, be subject to inspection by any member of the board of public utilities or by any member of the board of mayor and aldermen. (Ord. #1345, Feb. 1994)

**19-118. Adoption and/or revision of by-laws, rules and regulations.** The board of public utilities may from time to time adopt and/or revise such by-laws, rules and regulations as it may consider advisable. (Ord. #1345, Feb. 1994)



**19-119. Annual audit.** At least once each year, the board of public utilities shall have a certified public accountant or accountants make a thorough audit of the financial affairs and records of the Covington Electric System. (Ord. #1345, Feb. 1994)

**19-120. Board's general rights; powers and duties.** The board of public utilities shall have all rights, powers, and duties conferred by the Municipal Electric Plant Law of 1935 as set out in Tennessee Code Annotated, §§ 7-52-101, et seq., and all acts amendatory thereof and supplementary thereto. (Ord. #1345, Feb. 1994)

**19-121. Superintendent to be appointed; compensation; term.** The board of public utilities shall appoint a superintendent for the electric system who shall be qualified by training and experience for the general supervision of the improvement and operation of the electric plant. The superintendent need not be a resident of the State of Tennessee at the time his appointment. His salary shall be fixed by the board of public utilities. The superintendent shall serve at the pleasure of the board of public utilities and may be removed by said board at any time. (Ord. #1345, Feb. 1994)

**19-122. Powers of superintendent.** (1) The superintendent shall have charge of all actual construction, the immediate management and operation of the electric plant and the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by the board of public utilities.

(2) The superintendent shall appoint all employees and fix their duties and compensation, excepting that the appointment of all technical consultants and advisors and legal assistance shall be subject to the approval of the board of public utilities.

(3) Subject to the provisions of Tennessee Code Annotated, § 7-52-132, the superintendent, with the approval of the board of public utilities, may acquire and dispose of all property, real and personal, necessary to effectuate the purposes of the part. The title of such property shall be taken in the name of the municipality.

(4) The superintendent shall let all contracts, subject to the approval of the board of public utilities, but may, without such approval, obligate the electric plant on purchase orders up to an amount to be fixed by the board of public utilities, but not to exceed fifty thousand dollars (\$50,000.00). Any work or construction exceeding in cost the amount specified in the preceding sentence shall, before any contract is let or work done, be advertised by the superintendent for bids, but the board of public utilities shall have power to reject any all bids.

(5) The superintendent shall make and keep full and proper books and records, subject to the supervision and discretion of the board of public utilities. (Ord. #1345, Feb. 1994)

**19-123. Superintendent's general rights, powers and duties.** The superintendent shall have all rights, powers, and duties conferred by Tennessee Code Annotated, §§ 7-52-101, et seq., and all acts amendatory thereof and supplementary thereto. (Ord. #1345, Feb. 1994)

**19-124. Appointment of additional members.** The board of mayor and aldermen may, by resolution, increase the number of members of the board of public utilities from three (3) to five (5) members and establish the initial terms of office of such new members. Such additional members shall not be members of the board of mayor and aldermen and shall be subject to all of the duties, responsibilities, and provisions of this chapter. The appointment to the board shall be made by the mayor subject to approval by the board of mayor and aldermen. (Ord. #1345, Feb. 1994)

## CHAPTER 2

### NATURAL GAS REGULATIONS

#### SECTION

- 19-201. Regulations.
- 19-202. Definitions.
- 19-203. Gas services.
- 19-204. Continuity of service.
- 19-205. Connections.
- 19-206. Service line ownership.
- 19-207. Service line construction.
- 19-208. Meters.
- 19-209. Service calls.
- 19-210. Unauthorized use of gas or interference with gas supply.
- 19-211. Protection from damage.
- 19-212. Gas rates.
- 19-213. Deposit for gas service.
- 19-214. Cost of purchase gas.
- 19-215. Billing and payment.
- 19-216. Level billing plan.
- 19-217. Late payment surcharge.
- 19-218. Termination of service for nonpayment.
- 19-219. Service and curtailment priorities.
- 19-220. Notice to customers and safety rules.
- 19-221. Emergency situation; priorities.
- 19-222. Penalty for unauthorized use.
- 19-223. Franchise rights.

**19-201. Regulations.** The following regulations shall be applicable to natural gas distribution by the City of Covington, except as amended by, or to the extent exceptions to these rules in particular instances due to special circumstances are granted by the city council.

**19-202. Definitions.** The following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings, unless the context or use indicates another or different meaning or intent:

- (1) "City." City mean the City of Covington, Tennessee.
- (2) "Commercial customers." Customers engaged primarily in the sale of goods or services, including institutions and local, state, and federal government agencies, for uses other than those involving manufacturing or electrical power generation.

(3) "Commodity charge." A commodity charge is assessed under a particular rate schedule to recover the city's costs of selling gas to the customer.

(4) "Customer." A customer is a person or entity contracting with or otherwise receiving service from the Covington Gas System.

(5) "Customer charge." A customer charger is assessed under a particular rate schedule to recover the city's costs of serving the customer.

(6) "Day." A day means a period of twenty-four (24) consecutive hours, beginning and ending at 8:00 A.M. prevailing Covington, Tennessee time.

(7) "Feedstock gas." Natural gas used as a raw material for its chemical properties in creating an end product.

(8) "Firm." Firm service means that city may interrupt its performance without liability to the extent that such performance is prevented for reasons of force majeure, including performance of maintenance.

(9) "Gas." Gas means natural gas, including associated liquefiable hydrocarbons produced from gas wells, oil well gas produced in association with crude oil and synthetic or substitute natural gas.

(10) "Ignition fuel and flame stabilization." Natural gas used directly in an industrial use for ignition start-up, testing, flame stabilization, and shutdown.

(11) "Industrial customers." Customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product, including the generation of electric power.

(12) "Interruptible." Interruptible service means that city may interrupt its performance at any time for any reason.

(13) "Interruptible customer." Any customer (commercial or industrial) using the city's natural gas service hereunder for any purpose where such service interruption is established by the applicable service agreement or rate schedule or by council authorization.

(14) "Large residential customer." Customers who utilize gas service in apartment houses, mobile home parks, hotels, motels, clubs, and other establishments providing dwelling accommodations where more than one (1) dwelling unit is serviced through the same meter.

(15) "Mef." Mef is the abbreviation employed to denote one thousand (1,000) standard cubic feet of gas.

(16) "Purchase gas adjustment." The city shall maintain an accounting procedure to determine its cost of gas each month.

(17) "Plant protection gas." Minimum quantities required to prevent physical harm to the plant facilities or danger to plant personnel when such protection cannot be afforded through the use of alternate fuel. This includes the protection of such material in process as would otherwise be destroyed but shall not include deliveries required to maintain plant production. For the purpose of this definition, propane and other gaseous fuels shall not be considered alternate fuels. The quantification of such load shall be a responsibility of the

customer to provide to the satisfaction of the city to qualify for such classification treatment.

(18) "Process gas." Gas use for which alternate fuel use is not technically feasible, such as in applications requiring precise temperature controls and precise flame characteristics. For the purpose of this definition, propane and other gaseous fuels shall not be considered alternate fuels.

(19) "Rate schedules." The city provides service to various classes of customers only under the terms of published rate schedules.

(20) "Reconnect fee." A reconnect fee is charged to a customer whose service was disconnected in the past.

(21) "Residential customers." Customers who utilize gas service in individually metered dwelling units for space heating, air conditioning, cooking, water heating, and other residential uses.

(22) "Service call fee." A service call fee applies if routine service is requested to be performed after regular hours, on weekends or holidays.

(23) "Service line." A service line is the pipeline connecting the city's distribution system and the customer.

(24) "Unauthorized use of gas." Unauthorized use of gas shall mean:

(a) For any customer subject to curtailment during a curtailment period, the taking of gas in excess of the daily entitlement specified by the city.

(b) For an interruptible customer, the taking of gas on any day in excess of the maximum daily contract quantity specified in the gas service contract between the city and customer.

(c) For any customer with a maximum monthly quantity specified in the gas service contract between the city and the customer. The taking of gas in any billing period in excess of the maximum monthly quantity.

(d) For any customer, the taking of unmetered gas by bypassing the meter or willfully modifying the gas meter so as to cause loss or reduction of registration.

**19-203. Gas services.** The city shall render natural gas services as defined by rate schedules approved and amended from time to time.

**19-204. Continuity of service.** Under the city's rate schedules for firm service, the city will use reasonable diligence to supply steady and continuous service but does not guarantee that there will be no service fluctuations or interruptions. The city shall not be liable for any damages arising from any such interruption of service arising from circumstances beyond the city's control, including interruption when necessary to maintain and repair its facilities. The city shall have no liability or obligation arising out of any refusal or curtailment or interruption of service effected in accordance with these regulations.

**19-205. Connections.** The city may refuse gas service to any premises where the piping does not conform to the city's specifications and requirements, including those set forth herein and in other pertinent safety regulations. The city will not be liable for any imperfect material or defective or faulty workmanship in the installation of the customer's piping, appliances, appliance connections, or for any loss or damage arising from such condition.

**19-206. Service line ownership.** The service line is the property of the property owner on which the service line rests.

**19-207. Service line construction.** Only the city or its representative may construct a service line. A customer shall pay for the construction of a service line in accordance with a schedule measured from the property line to the riser.

**19-208. Meters.** Metering and regulating equipment shall be owned by city, and city shall have the right of ingress and egress to the metering and regulating equipment at all times. City shall use its best efforts to avoid interfering with customer if on is premises. City shall have the right to alter its metering and regulating equipment, as well as to install remote meter reading devices or other equipment city deems necessary for monitoring customer's delivery of gas. Metering equipment found to be inaccurate at operating conditions will be restored to an accurate operating condition or be replaced with other accurate metering equipment at city's expense. Should an operating condition exist whereby gas is consumed but no consumption is registered, an estimated bill will be calculated using prior metered consumption, as previously billed by city to customer, prorated for the period of non-registered consumption.

**19-209. Service calls.** The public works department shall respond to all complaints and inquiries relative to water, gas, sewer, or sanitation service. Responses to gas leaks and other emergencies shall be on a twenty-four (24) hour basis provided that customer shall pay an after hours fee where appropriate. Turn-ons, turn-offs, lighting of pilots and other requests for routine service will be undertaken on a scheduled basis during normal work hours and the customer shall pay a service call fee if routine service is requested to be performed after regular hours, on weekends or holidays.

**19-210. Unauthorized use of gas or interference with gas supply.** No person shall tamper with or willfully modify the city's gas meter. No person shall bypass a meter or turn-on or turn-off any of the city's stop cocks or valves without permission or authority from the city. Any person who does so may be prosecuted under any applicable state or federal statute, as well as the general penalty clause of this code. Additional penalties under this code also may apply for unauthorized use of gas.

**19-211. Protection from damage.** No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, meter, valve, or other equipment which is part of the gas works. Any person violating this provision shall be subject to criminal prosecution under charge for disorderly conduct and/or defacing public property, the general penalty clause of this code, and any applicable state or federal statute.

**19-212. Gas rates.** All rates and charges for natural gas services rendered by the city, and all conditions relative thereto, shall be determined from time to time by the city and shown in rate schedules, until changed subsequently by ordinance of the city.

**19-213. Deposit for gas service.** Before the gas department will commence gas service, the customer shall make a deposit according to the city's published schedule for such fees. An existing customer will be required to increase its existing deposit to the amount in the current schedule only if it has been cut off three (3) times in a twelve (12) month period for failure to pay.

**19-214. Cost of purchased gas.** The city shall maintain a gas purchase adjustment for the purpose of calculating the cost of gas to its sales customers.

**19-215. Billing and payment.** Pursuant to the applicable rate schedule, the city shall render an invoice monthly for gas service to the property owner, unless the city approves the establishment of an account by another party.

**19-216. Level billing plan.** A customer may elect a level billing plan under which the customer will be billed a fixed amount each month based on an annual estimation of the cost of service for the prior twelve (12) months, plus any projected increase in cost. The invoice for the twelfth month bill will include a reconciliation of the estimated and actual bill.

**19-217. Late payment surcharge.** There shall be added to the gas bill of each and every customer a surcharge of five percent (5%). If the bill of a customer is paid on or before the fifteenth (15th) day from the date on which due and payable, this five percent (5%) surcharge will be waived.

**19-218. Termination of service for nonpayment.** If a customer fails to pay its invoice when due, the city may give notice to the customer of termination for nonpayment. Such notice shall contain the address of the premises, the account information including the amount due, and the date on which service will be terminated, which date shall not be sooner than seven (7) days after the date of the notice (including weekends and holidays). If payment

is not received by the end of the seven (7) day period, the city may terminate service. Upon termination, the deposit shall be applied against the amount due. The city may exercise any remedy available at law or equity to enforce the customer's payment obligations. If a delinquent account is paid in full, and customer desires to obtain gas service, the customer shall pay a reconnect fee and make the applicable deposit under § 19-213.

**19-219. Service and curtailment priorities.** (1) During periods of gas shortages when reductions in the deliveries of gas to the city have the effect of impairing the city's ability to render service in satisfaction of all its customer requirements, including also any partial failure of the city's facilities, the city shall allocate its available gas supplies to provide service in order of the following priorities (with Priority 1A the last customer designation to be curtailed):

- (a) Priority 1A: Residential customers;
- (b) Priority 1B: Large residential customers;
- (c) Priority 2: Commercial customers;
- (d) Priority 3: Industrial customers with uses for feedstock gas, ignition and flame stabilization, plant protection, and process gas;
- (e) Priority 4: All other industrial customers;
- (f) Priority 5: Interruptible customers.

(2) The city shall notify customers affected by such curtailment, and those customers shall adjust their usage as directed. A customer during a curtailment period may utilize its allotted gas in the manner it desires as long as the requested load curtailment is met. Any gas taken in excess of two percent (2%) of its allotment shall be considered an unauthorized use of gas.

(3) In establishing a procedure to effect curtailments in accordance with the terms of this chapter, reductions within a customer class shall be on a pro rata basis, provided that the city may allocate gas within a customer class on other than a strict pro rata basis if required by the public interest and the burden of such curtailments on an aggregate basis is as equitable as possible among such class of customers.

(4) In the event of system maintenance the city shall have the right to shut off, discontinue, re-establish, or continue service to any customer or class of customers irrespective of the priority of preference provisions specified hereinabove.

**19-220. Notice to customers and safety rules.** To the extent practicable, the city shall give notice of curtailments or interruptions of gas service, as well as the re-establishment or recommencement of gas service following curtailments or interruptions, provided further that the city shall comply with all applicable safety rules, regulations, standards and proceedings.



**19-221. Emergency situation; priorities.** In emergencies threaten to impair the ability of the city to maintain the safety and integrity of its gas distribution system, including decrease or interruption of gas supply to or in the city's system or any part thereof due to line breaks, line freezes, equipment malfunctions or other similar events, the city shall take whatever steps it deems necessary to protect the public health and safety. To the extent feasible, the city shall follow the respective priorities hereinabove specified.

**19-222. Penalty for unauthorized use.** In the event of unauthorized use of gas, the customer shall be billed at a rate of ten (10) times the applicable residential customer rate.

**19-223. Franchise rights.** (1) Without a franchise granted by the City of Covington no person, partnership, corporation or other legal entity ("person") shall have the right or privilege:

(a) To erect, construct, operate or maintain or use any natural gas pipeline, plant or system or gasworks, or works within the city in order to sell or distribute or provide non-municipal natural gas to itself or any other user or consumer within the city; or

(b) To use the streets, alleys, or public grounds of the city for such purpose; or

(c) To interconnect any building, structure or facility of any kind to any natural gas pipeline or system other than to the natural gas system of the City of Covington.

(2) No ordinance for the grant of a franchise for a natural gas distribution system as set forth herein shall be granted except under such terms and conditions as shall preserve the financial integrity of the City of Covington and the amount of in lieu of tax payments received by the City of Covington from the Covington Gas Fund. Such franchise ordinances shall require that any franchise holder shall pay to the City of Covington a franchise fee of ten percent (10%) of gross receipts of the franchise holder's gas distribution system. Such gross receipts shall include the costs of operation and the costs of delivered natural gas. If the franchise holder is distributing itself, the gross receipts shall include the cost of operation of the distribution system plus the delivered cost of the gas to be distributed. The franchise holder shall be required to make all of its records available to the city for the purpose of determining the franchise fee. If the franchise holder also is the owner of any facilities of the distribution or sale of natural gas, and delivered costs of the natural gas shall not be less than average annual cost for the preceding calendar year of such delivered natural gas to be resold by the City of Covington (including all operating costs) for the purpose of computing the franchise fee.

(3) Unless a franchise has been given or granted it shall be unlawful for any person, partnership, corporation, or other legal entity:

(a) To erect, construct, operate or maintain or use any natural gas pipeline, plant or system or gas works within the city in order to sell or distribute or provide non-municipal natural gas to itself or any other consumer within the city; or

(b) To use the street, alleys, or public grounds of the city for such purpose; or

(c) To interconnect any building, structure or facility of any kind to any natural gas pipeline or system, other than to the natural gas system of the City of Covington.

(4) Any person seeking such franchise shall:

(a) Make application to the City of Covington on a form to be provided by the city;

(b) Demonstrate at a public hearing that a substantial need exists for the construction and/or operation of gas distribution facilities and that the proposed construction and/or operation is not contrary to the public interest; and

(c) Meet all requirements of Tennessee Code Annotated, § 7-39-101.

(5) If any person constructs, operates or maintains any natural gas pipeline, plant or system or gas works or sells or distributes any natural gas within the city, or makes any connections with gas contrary to the provisions of the foregoing; then, in addition to any other remedies and measures provided by law, the city attorney or the director of public works may commence an action in the name of and on behalf of the city for suitable and appropriate legal and equitable relief.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. FAIR HOUSING ORDINANCE.
2. JOINT CIVIL DEFENSE ORGANIZATION.
3. HAZARDOUS MATERIALS--COST RECOVERY.
4. COVINGTON MUNICIPAL AIRPORT.

**CHAPTER 1**

**FAIR HOUSING ORDINANCE**

**SECTION**

- 20-101. Title.
- 20-102. Definitions.
- 20-103. Purposes of law; construction; effect.
- 20-104. Unlawful housing practices.
- 20-105. Blockbusting.
- 20-106. Exemptions from housing provisions.
- 20-107. Provisions for enforcement.
- 20-108. Agency no defense in proceeding against real estate dealer.
- 20-109. Establishment of procedures for conciliation.
- 20-110. Findings of hearing board; nature of affirmative action.
- 20-111. Investigations, powers, records.
- 20-112. Conspiracy to violate this chapter unlawful.

**20-101. Title.** This chapter shall be known and may be cited as the City of Covington Fair Housing Ordinance. (1971 Code, § 4-601)

**20-102. Definitions.** Except where the context clearly indicates otherwise, the following terms as used in this chapter shall have the following meanings:

(1) "Conciliation agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(2) "Conciliation failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

(3) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person

or persons because of race, color, religion, national origin or sex, or the aiding, abetting, inciting, coercing or compelling thereof.

(4) "Hearing board" means that body of citizens duly appointed by the board of mayor and aldermen to hear, make determinations, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

(5) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied as a home or residence of one (1) or more individuals.

(6) "Real estate broker" or "real estate salesman" means an individual whether licensed or not who, on behalf of others, for a fee, commission, salary or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the city or county or any of its agencies or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sales, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above. (1971 Code, § 4-602)

**20-103. Purpose of law; construction; effect.** (1) The general purposes of this chapter are:

(a) To provide for execution within the City of Covington of the policies embodied in title VIII of the Federal Civil Rights Act of 1968, as amended.

(b) To safeguard all individuals within the City of Covington from discrimination in housing opportunities because of race, color,

religion, national origin, or sex; thereby to protect their interest in personal dignity and freedom from humiliation; to secure the city against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interests, rights, and privileges of individuals within the city.

(2) Nothing contained in the chapter shall be deemed to repeal any other law of this city relating to discrimination because of race, color, religion, national origin or sex. (1971 Code, § 4-603)

**20-104. Unlawful housing practices.** It is an unlawful practice for a real estate owner or operator or for a real estate broker, real estate salesman, or any individual employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin or sex;

(2) To discriminate against an individual because of his or her race, color, religion, national origin or sex in the terms, conditions, or privileges of this sale, exchange, rental or lease of real property or in the furnishings of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent or lease real property from an individual because of his or her race, color, religion, national origin or sex;

(4) To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his or her race, color, religion, national origin or sex;

(5) To represent to an individual that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his or her race, color, religion, national origin or sex;

(6) To print, circulate, post, or mail or cause to be printed, circulated, posted or mailed and advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, national origin or sex or an intent to make such a limitation, specification, or discrimination;

(7) To offer, solicit, accept, use or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of race, color, religion, national origin or sex; or

(8) To otherwise deny to or withhold real property from an individual because of race, color, religion, national origin or sex. (1971 Code, § 4-604)

**20-105. Blockbusting.** It is an unlawful practice for a real estate owner or operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion or national origin of the owners or occupants in the block, neighborhood, or areas in which the real property is located; or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located. (1971 Code, § 4-605)

**20-106. Exemptions from housing provisions.** (1) Nothing in § 20-104 shall apply:

(a) To the rental of housing accommodations in a building which contains housing accommodations for not more than four (4) families living independently of each other, if the owner or member of his family resides in one (1) of the housing accommodations;

(b) To the rent of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family resides therein;

(c) To a landlord who refuses to rent to an unmarried male-female couple.

(2) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such a religion is restricted on account of race, color, sex, or national origin.

(3) Single sex dormitory rental property shall be excluded from the provisions of this act which relate to discrimination based on sex. (1971 Code, § 4-606)

**20-107. Provisions for enforcement.** (1) The violation of any of the provisions of this chapter shall be punishable under the general penalty clause of this code.

(2) The city may sue in a civil action through the chancery or circuit courts for appropriate remedies to enforce the provisions of this chapter, including temporary restraining orders and mandatory and prohibitory injunctions.

(3) In addition to appropriate civil and/or equitable remedies for enforcement of this chapter, a violation of this chapter shall constitute a misdemeanor punishable as provided by law. (1971 Code, § 4-607)

**20-108. Agency no defense in proceeding against real estate dealer.** It shall be no defense to a violation of this chapter by a real estate owner or operator, real estate broker, real estate salesman, a financial institution, or other person subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter. (1971 Code, § 4-608)

**20-109. Establishment of procedures for conciliation.** (1) The city shall designate an agent(s) to investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation efforts may be initiated by any person(s) said to be subject to discrimination as defined in this chapter.

(2) The board of mayor and aldermen shall establish a hearing board which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearings by the board shall commence when ever the agent(s) acting on behalf of the city decides a conciliation failure has occurred and the respondent agrees to participate in the hearing board proceedings. Hearing open to the public may be initiated by the responding party at any time during the conciliation process. (1971 Code, § 4-609)

**20-110. Findings of hearing board; nature of affirmative action.**

(1) If the hearing board determines that the respondent has not engaged in an unlawful practice, the board shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the city attorney, and such other public officers and persons as the board deems proper.

(2) If the hearing board determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and conclusions of law and shall negotiate such affirmative action as in its judgment will carry out the purposes of this chapter. A copy of the findings shall be delivered to the respondent, the complainant, the city attorney, and such other public officials, officers and persons as the board deems proper.

(3) Affirmative action negotiated under this section may include, but not be limited to:

- (a) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;
- (b) Reporting as to the manner of compliance;
- (c) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the hearing board;

(d) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual;

(e) Payment to the complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarrassment, and expenses incurred by the complainant in obtaining alternative housing accommodation and for other costs actually incurred by the complainant as a direct result of such unlawful practice.

(4) The provisions for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this ordinance. (1971 Code, § 4-610)

**20-111. Investigations, powers, records.** (1) In connection with an investigation of a complaint filed under this chapter, the enforcing agent(s) at any reasonable time may request voluntary access to premises, records and documents relevant to the complaint and may request the rights to examine, photograph, and copy evidence.

(2) Every person subject to this chapter shall make, keep and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.

(3) A person who believes that the application to it of a regulation or order issued under this section would result in undue hardship may apply to the hearing board for an exemption from the application of the regulational order. If the board finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief. (1971 Code, § 4-611)

**20-112. Conspiracy to violate this chapter unlawful.** It shall be an unlawful practice for a person, or for two (2) or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he or she has opened a practice declared unlawful by this chapter, or because he or she has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(2) To aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; or

(4) To resist, prevent, impede, or interfere with the enforcing agent(s), hearing board, or any of its members or representatives in the lawful performance of duty under this chapter. (1971 Code, § 4-612)



## CHAPTER 2

### JOINT CIVIL DEFENSE ORGANIZATION

#### SECTION

- 20-201. Tipton County Civil Defense Organization created.
- 20-202. Authority and responsibilities.
- 20-203. Office of director, his authority and responsibility.
- 20-204. Tipton County Civil Defense Corps created.
- 20-205. No municipal or private liability.
- 20-206. Expenses of civil defense.

**20-201. Tipton County Civil Defense Organization created.** There is hereby created the Tipton County Civil Defense Organization, which shall be a joint operation of the City of Covington and the County of Tipton for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Tipton County shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the Tipton County civil defense. (1971 Code, § 1-1001)

**20-202. Authority and responsibilities.** (1) Authority. In accordance with federal and state enactments of law, the Tipton County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Tipton County, the Tipton County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) Responsibilities. The Tipton County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Tipton County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1971 Code, § 1-1002)

**20-203. Office of director, his authority and responsibility.**

(1) Primary authority. (a) The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge or either or by higher authority as appropriate.

(b) The director shall have overall responsibility for the preparation of all plans and recruitment and training personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state CD office.

(c) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purpose of this chapter, subject to the approval of the chief executive officers of the city and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the Tipton County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (1971 Code, § 1-1003)

**20-204. Tipton County Civil Defense Corps created.** The Tipton County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority. It shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1971 Code, § 1-1004)

**20-205. No municipal or private liability.** The duties prescribed in this document is an exercise by the city and county of its governmental functions for the protection of the public peace, health, and safety and neither the City of Covington nor Tipton County, the agents and representatives of said city and county nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission or for loss of, or damage to, the property of such person. (1971 Code, § 1-1005)

**20-206. Expenses of civil defense.** No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the city and/or county or both; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the city and/or county, or both. The civil defense director shall disburse such monies as may be provided annually

by appropriation of the city and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Covington or Tipton County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the city and county. (1971 Code, § 1-1006)

## CHAPTER 3

### HAZARDOUS MATERIALS--COST RECOVERY

#### SECTION

20-301. Purpose.

20-302. Definitions.

20-303. Recovery authorization and procedure.

20-304. No admission of liability.

20-305. Action to recover costs.

**20-301. Purpose.** This chapter shall provide procedures for recovering costs incurred by the city for city assistance in hazardous materials emergencies. (Ord. #1313, Aug. 1992)

**20-302. Definitions.** As used in this chapter:

(1) "Expenses" means the actual labor costs of government and volunteer personnel including worker's compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and the cost of any contract labor and materials.

(2) "Hazardous materials emergency" means a sudden and unexpected release of any substance that, because of its quantity, concentration or physical, chemical, or infectious characteristics, presents a direct and immediate threat to public safety or the environment, and requires immediate action to mitigate the threat. (Ord. #1313, Aug. 1992)

**20-303. Recovery authorization and procedure.** The city is hereby empowered to recover from any person, corporation, partnership or other individual or entity whose negligent actions cause the hazardous material emergency expenses incurred by city agencies directly associated with a response to a hazardous materials emergency pursuant to the following procedure:

(1) The city shall determine responsibility for the emergency and notify the responsible party by mail of the city's determination of responsibility and the costs to be recovered.

(2) The notice shall specify that the determined responsible party may appeal the city's decision before a hearing officer designated by the mayor and establish a date by which the notice of appeal shall be filed. The appeal date shall be no less than fifteen (15) days from the date of the notice.

(3) In the event the determined responsible party appeals the determination, the hearing officer shall hold a public hearing to consider any issues raised by the appeal, at which hearing the appealing party and the city shall be entitled to present evidence in support of their respective positions.

(4) The hearing officer shall, after the hearing, make a recommendation to the mayor who shall issue a decision assessing responsibility and costs. (Ord. #1313, Aug. 1992)

**20-304. No admission of liability.** The payment of expenses determined owing under this chapter does not constitute an admission of liability or negligence in any legal action for damages. (Ord. #1313, Aug. 1992)

**20-305. Action to recover costs.** In the event parties determined to be responsible for the repayment of hazardous material emergency costs fail to make payment to the city within thirty (30) days after a determination of any appeal by the mayor or thirty (30) days from the deadline for appeal in the event no appeal is filed, the city may initiate legal action to recovery from the determined responsible parties the costs determined to be owing, including the city's reasonable attorney's fees. (Ord. #1313, Aug. 1992)

**CHAPTER 4**

**COVINGTON MUNICIPAL AIRPORT**

**SECTION**

20-401. Adoption of state statutes by reference.

**20-401. Adoption of state statutes by reference.** All provisions of title 42, chapter 5, County and Municipal Airports, Part 1, Tennessee Code Annotated, § 42-5-101, et seq., and any changes, modifications or additions made subsequent thereto are hereby adopted in their entirety. (Ord. #1343, Feb. 1994)

**OCCUPATIONAL  
SAFETY AND HEALTH  
PROGRAM  
FOR  
THE CITY OF  
COVINGTON, TN**

**OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR  
EMPLOYEES OF THE CITY OF COVINGTON TN**

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- I. **Purpose.** The City of Covington in electing to update and maintain an effective occupational safety and health program for its employees shall:
- a. Provide a safe and healthful place and condition of employment.
  - b. Make, keep, preserve, and make available to the Commissioner of Labor of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor to whom such responsibilities have



- been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- c. Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this program.
  - d. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
  - e. Consult with the Tennessee Commissioner of Labor or his designated representative with regard to the adequacy of the form and content of such records.
  - f. Consult with the Tennessee Commissioner of Labor regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
  - g. Assist the Tennessee Commissioner of Labor or his designated representative monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
  - h. Make a report to the Tennessee Commissioner of Labor annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
  - i. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

**II. Coverge.** The provisions of the occupational safety and health program for the employees of the City of Covington shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Covington whether part-time or full-time, seasonal or permanent.

Standard authorized:

The occupational safety and health standards adopted by the City of Covington are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in

accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3).

Variances from standards authorized:

The Safety Committee may, upon written application to the Commissioner of Labor of the State of Tennessee, request an order granting a temporary variance from any approved standards. Application for variances shall be in accordance 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the Chairman of the Safety Committee shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designed by the Chairman of the Safety Committee shall be deemed sufficient notice to employees.

**III. Definitions.** For the purposes of this program, the following definitions apply:

- a. "Act or "TOSHA Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- b. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- c. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.
- d. "Commissioner of Labor" means the chief executive officer of the Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor.
- e. "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program for the employees of the City of Covington.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

- g. "Employer" means the City of Covington and includes each administrative department, board, commission, division, or other agency of the City of Covington.
- h. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- i. "Governing body" means the city council or may, whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- j. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- k. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.
- l. "Person" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- m. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
  - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
  - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.
- n. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or

the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

**IV. Employer's rights and duties.** Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program.

**V. Employee's rights and duties.** Rights and duties of employees shall include, but are not limited to, the following provisions:

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

- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHA Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed or corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the safety representative at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the safety representative any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.

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

**VI. Administration.** For the purposes of this chapter, Sammy Beasley, Inspector for Covington Fire Department is designated as the director of occupational safety and health (Safety Director) for the City of Covington Occupational Safety and Health Program.

- a. The Safety Director of the City of Covington is designated to perform duties and/or to exercise powers assigned so as to administer this occupation safety and health program.
  1. Each department director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
  2. Each department director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the safety director.
  3. The safety director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
  4. The safety director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
  5. The safety director or his designee shall prepare the report to the Commissioner of Labor required by subsection (g) of section 1 of this plan.
  6. The safety director or his designee shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
  7. The safety director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
  8. The safety director shall maintain or cause to be maintained records required under section VIII of this plan.
  9. The safety director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more

- employees, insure that the Commissioner of Labor receives notification of the occurrence within eight (8) hours.
- b. The department director or head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The department director or their designee shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
  2. The department director or their designee shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
  3. The department director or their designee should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standard violations that may exist and make an attempt to immediately correct such hazards or violations.
  4. The department director or their designee shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V of this plan.

**VII. Standards authorized.** The standards adopted under this program are the applicable standards developed and promulgated under section VI (6) of the Tennessee Occupation Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

**VIII. Variance procedure.** The director of safety may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director of safety should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor.

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

- a. The application for a variance shall be prepared in writing and shall contain:
  1. A specification of the standard or portion thereof from which the variance is sought.
  2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by

- representations by qualified personnel having first-hand knowledge of the facts represented.
3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
  4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
  5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor by registered or certified mail.
  - c. The Commissioner of Labor will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
    1. The employer:
      - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
      - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
      - iii. Has an effective program for coming into compliance with the standard as quickly as possible.
    2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
  - d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
  - e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.



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

**IX. Recordkeeping and reporting.**

- a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupation Safety and Health Act of 1970, (revised 1978) or as may prescribed by the Tennessee Department of Labor.
- b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix II to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the record keeper are specified by Accident Reporting Procedures, Appendix V to this plan.

**X. Employee complaint procedure.** If any employee feels that he is assigned to work in conditions that might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to their immediate supervisor and then the department director, and then the city safety director.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section I of this plan).
- b. Upon receipt of the complaint letter, the safety representative will evaluate the conditions(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the safety representative will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. The city safety director will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled

- meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- d. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for corrections is felt to be too long, he may forward a letter to the department director explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
  - e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor.
  - f. Copies of all complaint and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor or his designated representative upon request.

#### **XI. Education and training.**

- a. Director and/or safety representative:
  1. Arrangement will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
  2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, writing technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All employees (including supervisory personnel).

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the

environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHA Act Standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
  - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
  - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
  - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

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

- a. In order to carry out the purposes of this program, the director or safety representative is authorized:
  1. To enter at any reasonable time, any establishment, facility or worksite where work is being performed by an employee when

- such establishment, facility, or worksite is under the jurisdiction of the employer and;
2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the safety representative during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
  - c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
  - d. The right of accompaniment may be denied to any person whose conduct interferes with a full and orderly inspection.
  - e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
  - f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
  - g. Advance notice of inspections.
    1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
    2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
  - h. The safety representative need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors of other personnel provided:
    1. Inspections conducted by the safety representative are at least as effective as those made by the director.
    2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.

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

**XIII. Imminent danger procedures.**

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
  1. The immediate supervisor shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
  2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
  3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or safety representative shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
  4. The department director or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or safety representative and to the mutual satisfaction of all parties involved.
  5. The imminent danger shall be deemed abated if:
    - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
    - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
  6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.
- b. Refusal to abate.
  1. Any refusal to abate an imminent danger situation shall be reported to the department director and safety director immediately.

2. The department director and safety director shall take whatever action may be necessary to achieve abatement.

**XIV. Abatement orders and hearings.**

- a. Whenever, as a result of an inspection or investigation, the safety representative finds that a worksite is not in compliance with the standard, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the safety committee shall:
  1. Issue an abatement order to the head of the worksite.
  2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
  1. The standard, rule, or regulation which was found to be violated.
  2. A description of the nature and location of the violation.
  3. A description of what is required to abate or correct the violation.
  4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the safety committee in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the safety committee shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

**XV. Penalties.**

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
  1. Oral reprimand.
  2. Written reprimand.
  3. Suspension for three (3) or more working days.
  4. Termination of employment.

**XVI. Confidentiality of privileged information.** All information obtained by or reported to the safety committee pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential but shall be subject to the open records law. Such information may be disclosed to other officials or employees under this program. Such information may also be disclosed to the Commissioner of Labor or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

**XVII. Compliance with other laws not excused.**

- a. Compliance with any other law, statute, ordinance, or executive order as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.
- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

**XVIII. Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this program is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

ORGANIZATIONAL CHART FOR REPORTING INCIDENTS  
CITY OF COVINGTON  
APPENDIX I

1. Immediate supervisor
2. Department director
3. Both Safety director and/or Personnel director  
are responsible for record keeping and reporting.



OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

APPENDIX II

NOTICE TO ALL EMPLOYEES OF THE CITY OF COVINGTON

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

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

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

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

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

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the department director then the safety director.

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

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

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

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a pre-determination hearing.

OCCUPATIONAL SAFETY AND HEALTH PLAN  
PROGRAM BUDGET

APPENDIX III

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Covington has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program and to comply with standards.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN  
ACCIDENT REPORTING PROCEDURES

APPENDIX IV

Since a Workers' Compensation Form C20 or OSHA NO. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

Note: All fatalities or accidents involving the hospitalization of three (3) employees shall be reported by phone to the Commissioner of Labor and Workforce Development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system.

1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
4. Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.

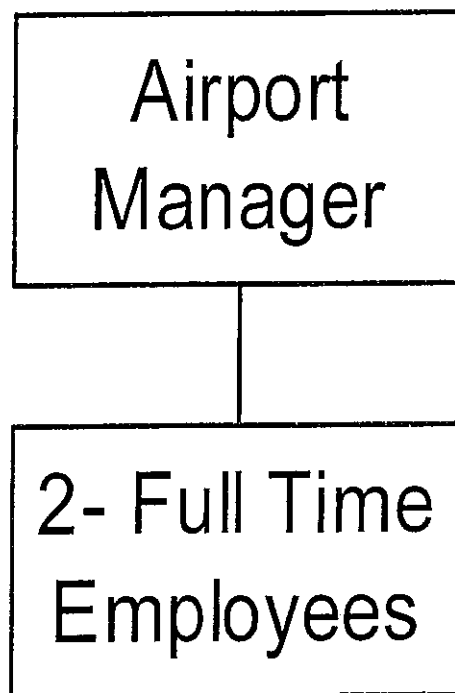
5. Retain these records for at least 5 years.
6. Complete the Survey of Occupational Injuries/Illness and mail it to the Labor Research and Statistics, when requested.

# City of Covington Organizational Chart

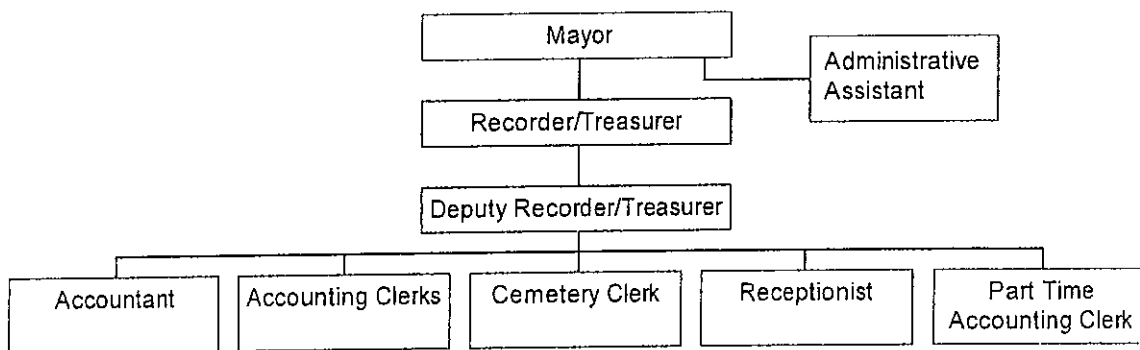
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# Covington Municipal Airport

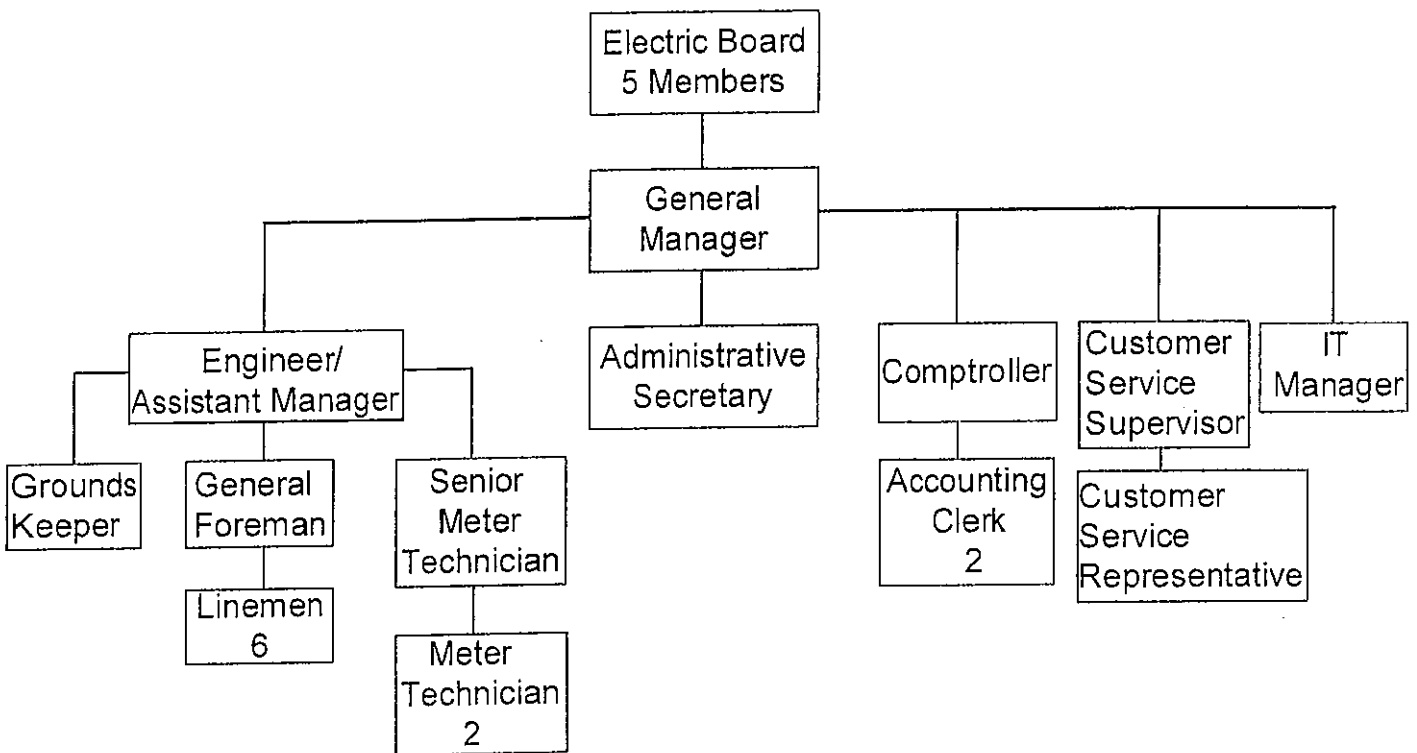


# Covington City Hall

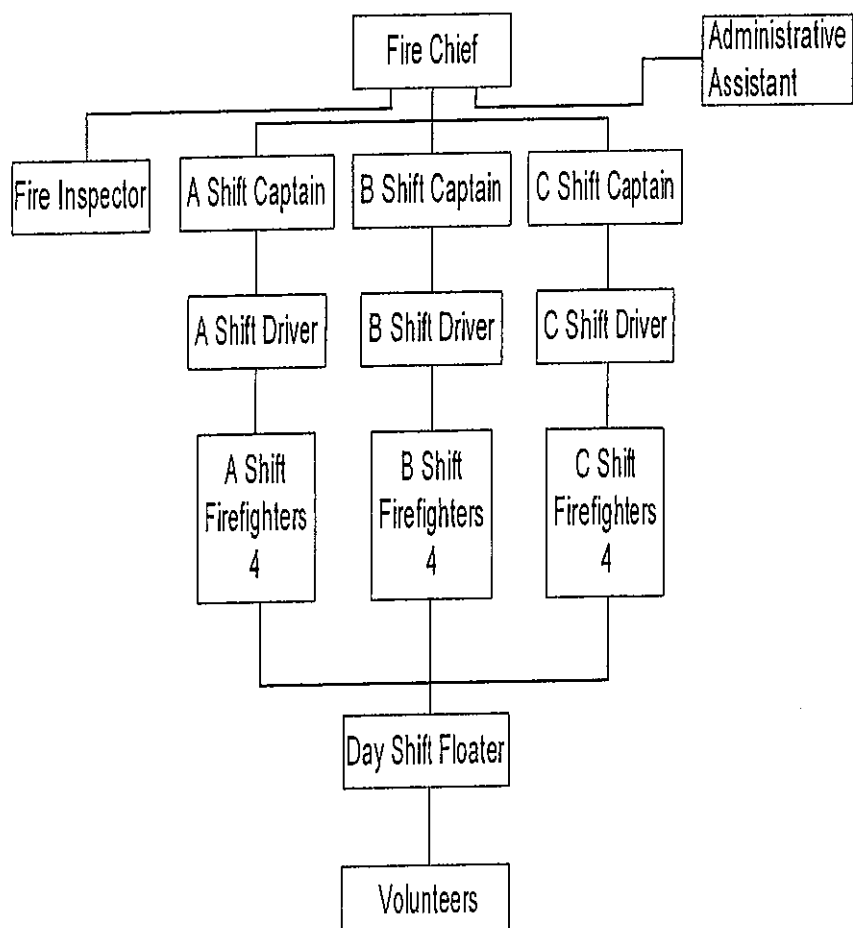




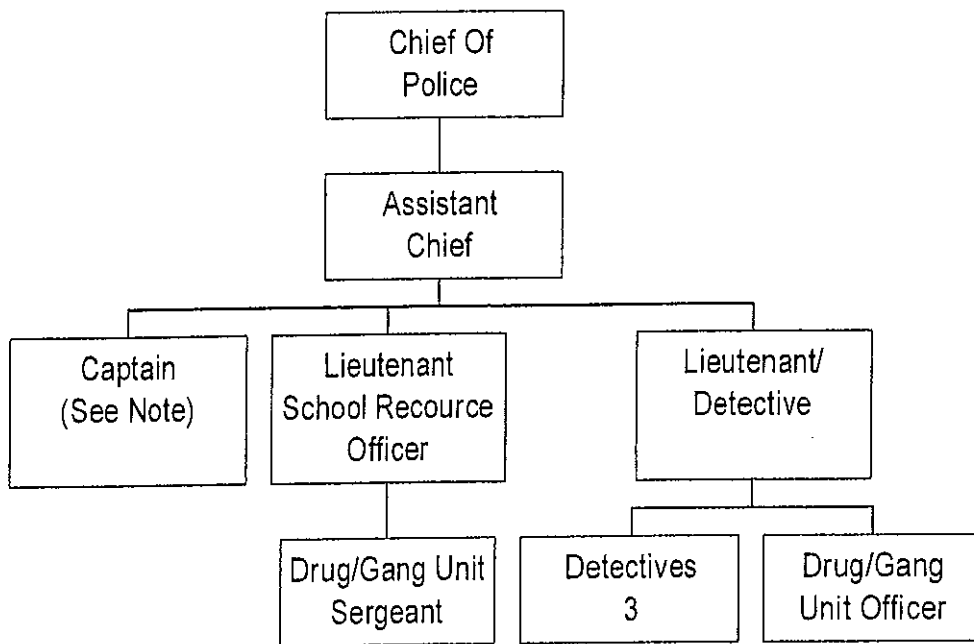
# Covington Electric System



# Covington Fire Department

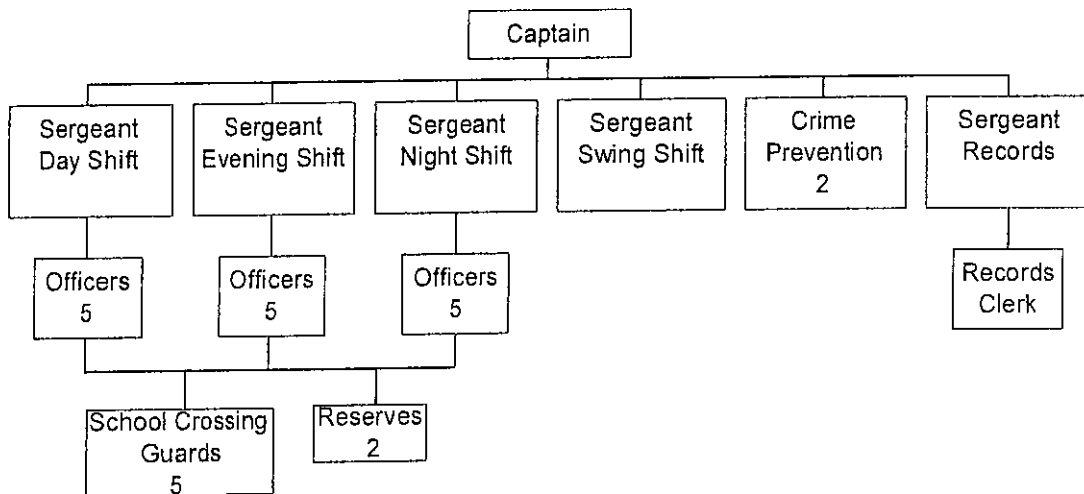


# Covington Police Department



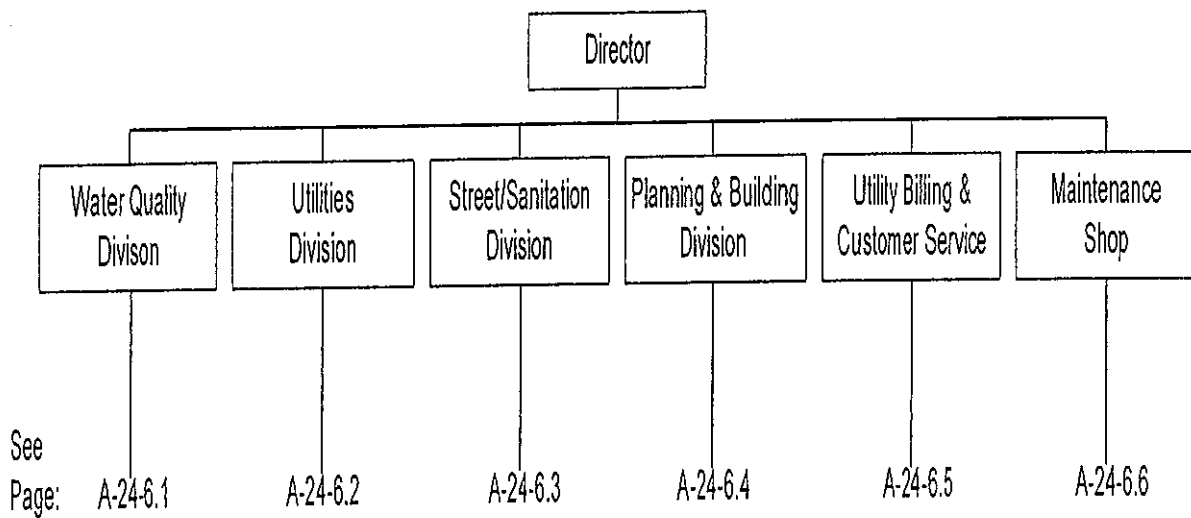
Note:For Captains subordinates see page A-24-5-1

# Covington Police Department Captains Subordinates

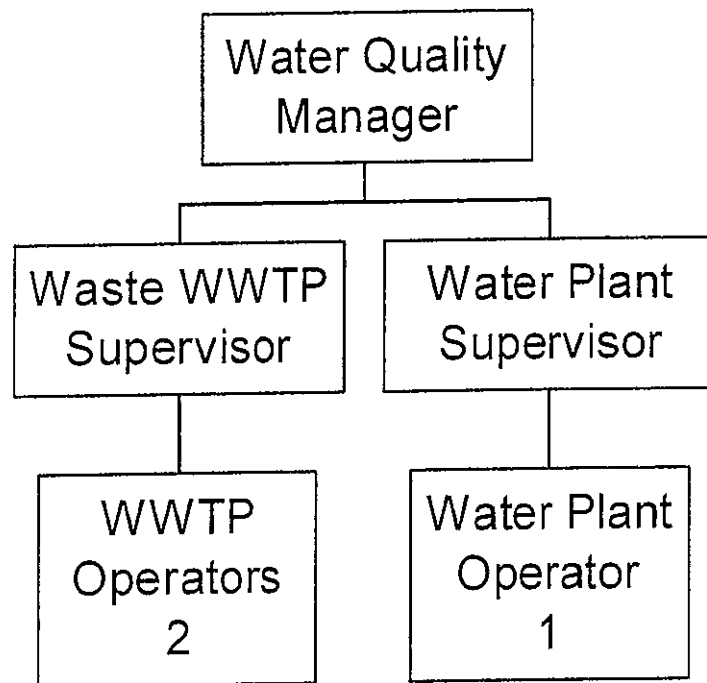


# Covington Public Works

Organizational Chart

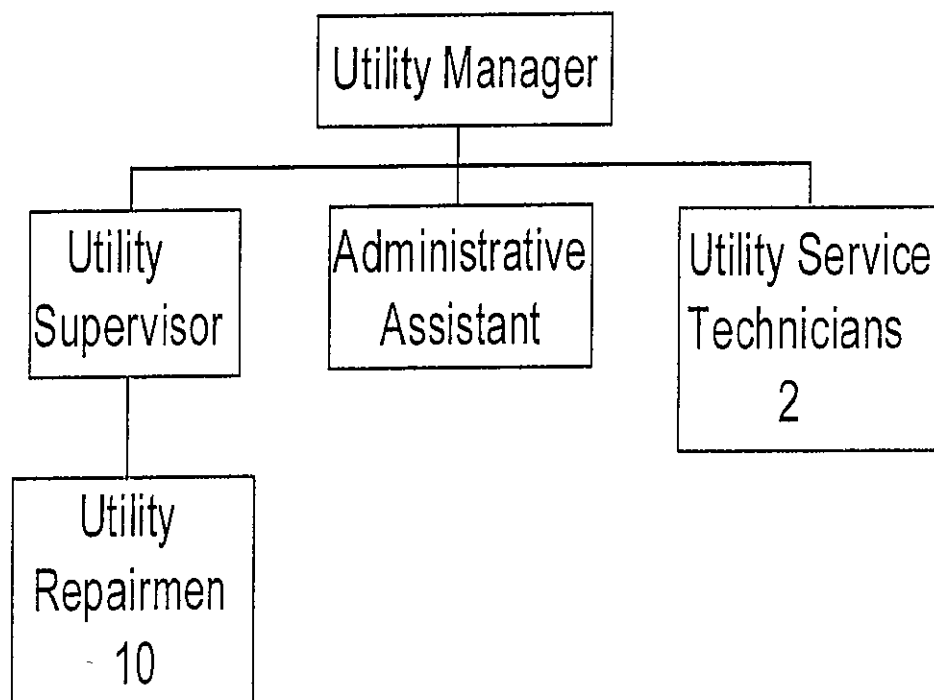


# Water Quality Division

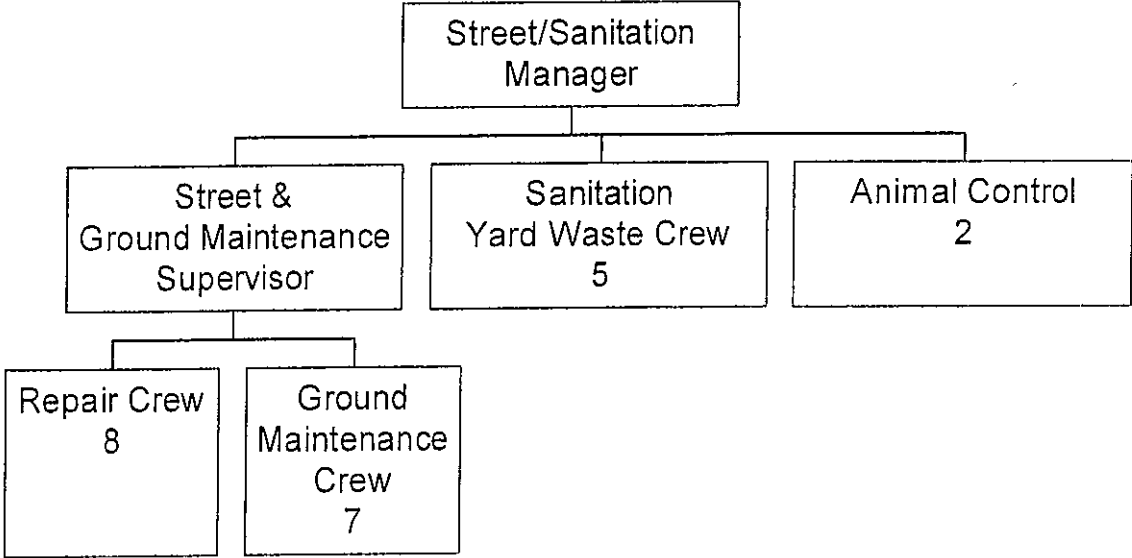


Note:WWTP=Waste Water Treatment Plant

# Utilities Division

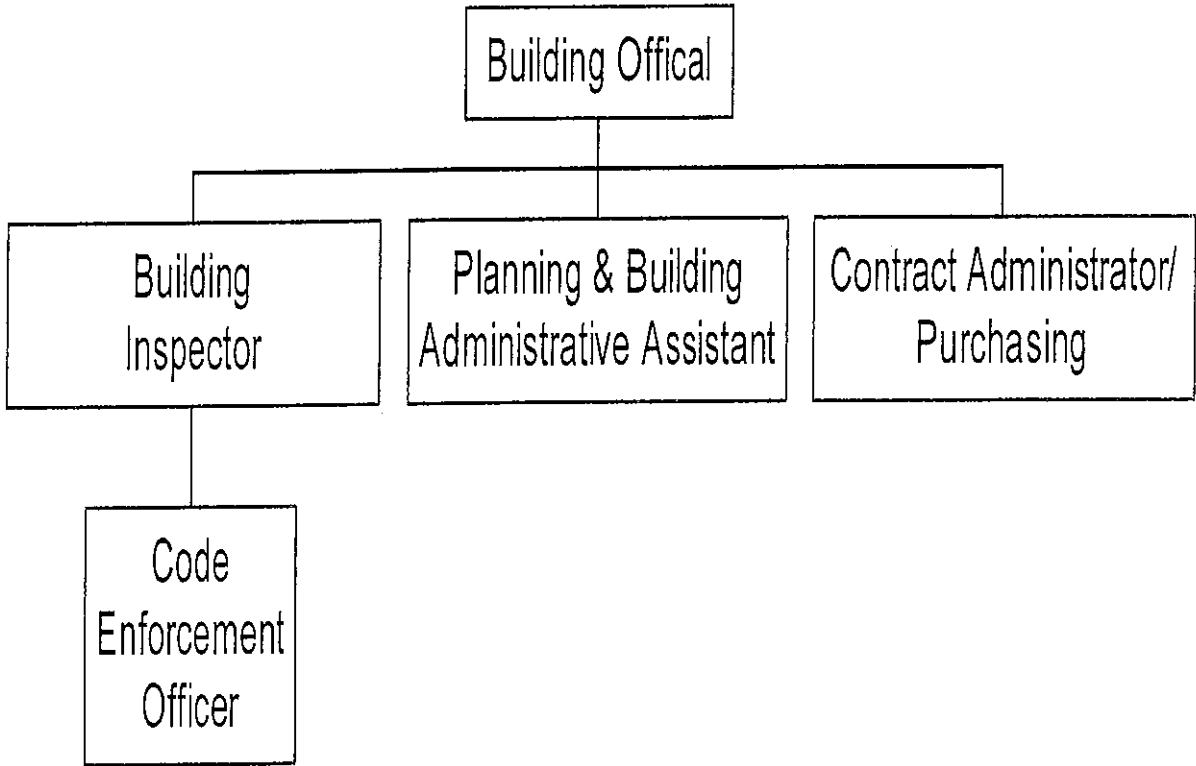


# Street/Sanitation Division

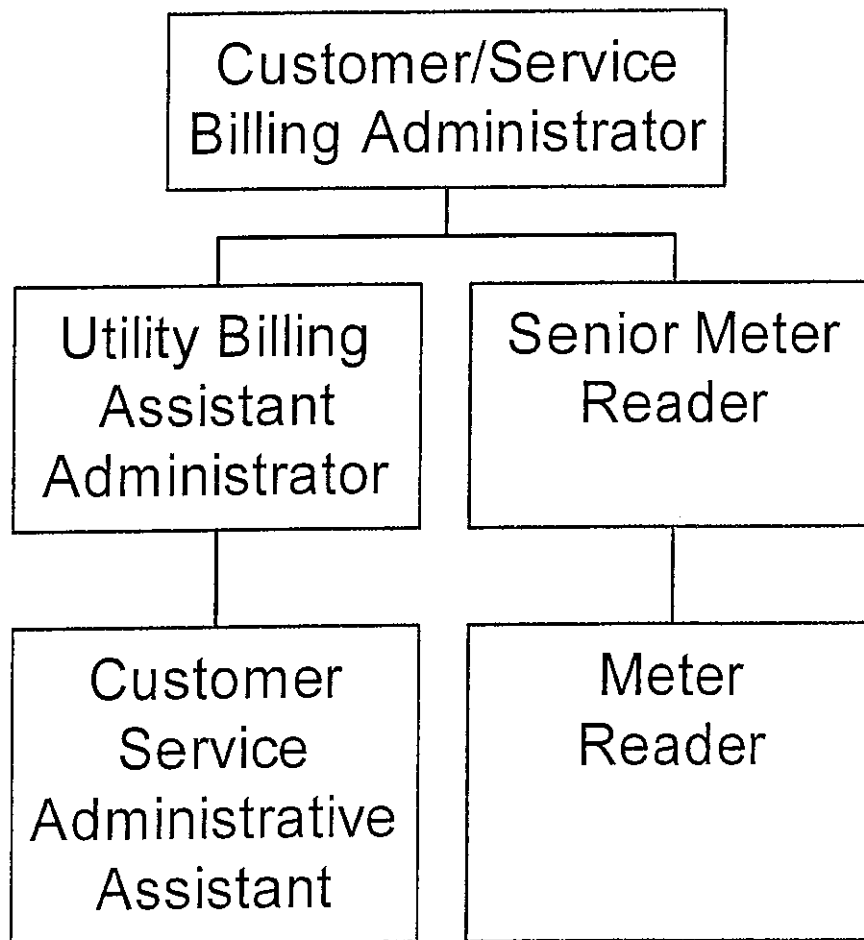




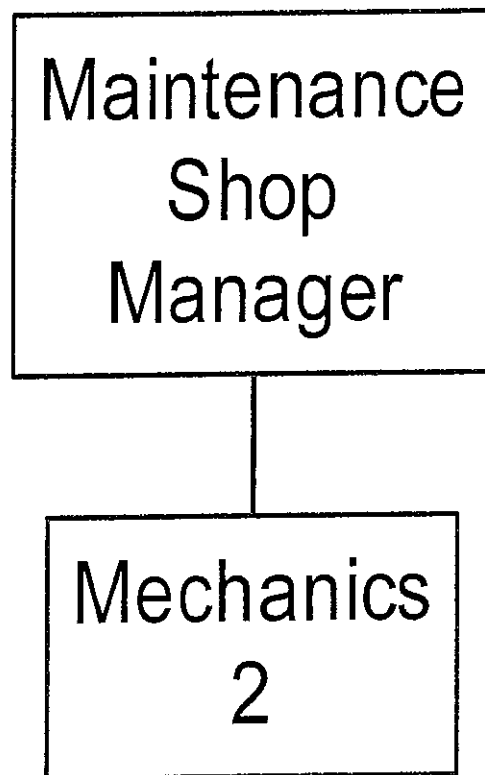
# Planning & Building Division



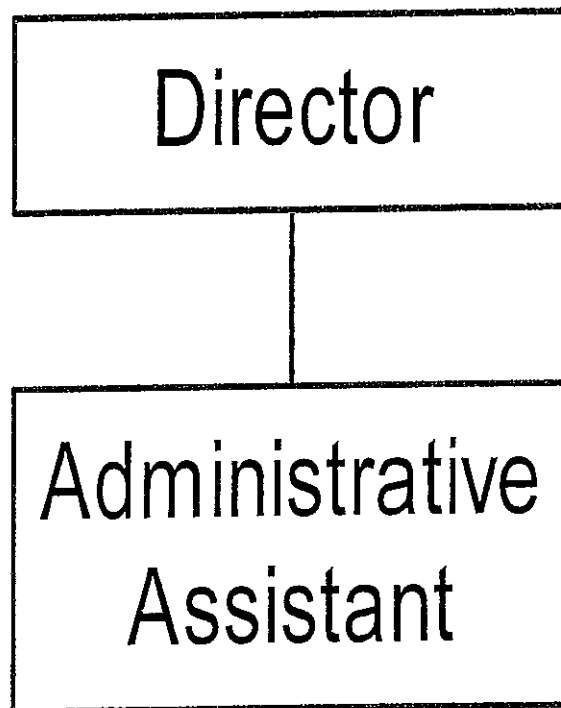
# Utility Billing/Customer Service Division



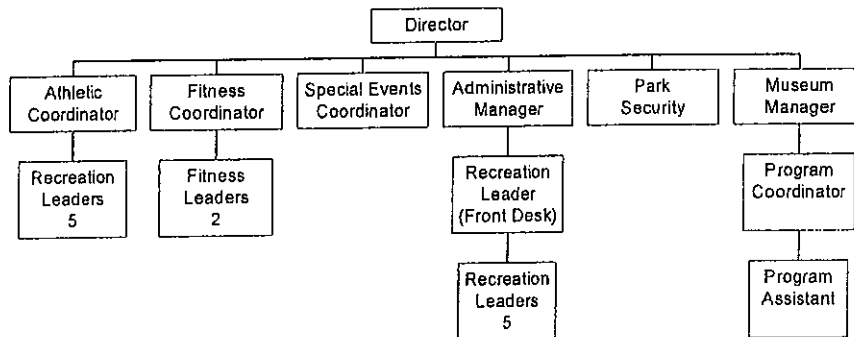
# Maintenance Division



# Covington Purchasing & Personnel



# Covington Parks and Recreation



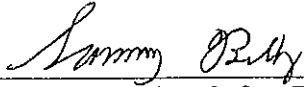
# City of Covington Employee Roster Count Per Department

Employee count per dept. as of March-2010

	<u>Full Time</u>	<u>Part Time</u>
Airport	3	0
City Hall	8	1
Electric System	20	0
Fire Dept	22	3
Police Dept	34	6
Public Works	55	6
Purchasing/ Personnel	2	0
Parks & Recreation	9	13
Total	153	29

SIGNATURE PAGE  
APPENDIX VI

Adopted by the Board of Mayor & Alderman of the City of Covington, TN  
this 23<sup>rd</sup> day of MARCH, 2010




Sammy Beasley, Safety Director

Date: 3-24-10



David Gordon, Mayor

Date: 3/23/10



Jere Hadley, Recorder/Treasurer

Date: 3/23/10

Note: A copy of the Occupational Safety and Health Program for the employees of the City of Covington is available for inspection by any employee at City Hall or the office of The Safety Director during regular business hours.

ORDINANCE NO. 1664**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF COVINGTON, TENNESSEE.**

WHEREAS some of the ordinances of the City of Covington are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Covington, 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 "Covington Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF COVINGTON:

**Section 1. Ordinances codified.** The ordinances of the city 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 "Covington 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 city or authorizing the issuance of any bonds or other evidence of said city'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 city; 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 city; 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 city.

**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>

Each day any violation of the municipal code continues shall constitute a separate civil offense.

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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.

**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 city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

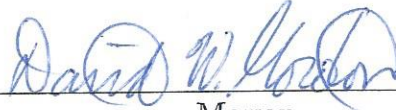
**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

**Section 10. Date of effect.** This ordinance shall take effect from and after its final passage, the welfare of the corporation 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, 8/12, 2014.

Passed 2nd reading, 8/26, 2014.

Passed 3<sup>rd</sup> reading, 9/9, 2014.



Mayor



Recorder