

**THE  
GREENBRIER  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

May 1997

*Change 7*  
*December 2, 2019*

**TOWN OF GREENBRIER, TENNESSEE**

**MAYOR**

Bonnette Dawson

**ALDERMEN**

Chris Davis  
Bill Deaver  
Jeff DeLong  
Billy Ray Dorris  
Steve Higdon

**RECORDER**

Rachel Slusser

**CITY ATTORNEY**

Bill Vernich

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.

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

When the foregoing conditions are met MTAS will 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 Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Codification Specialist

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

SECTION 10. No ordinance shall become a law without having been passed on two (2) readings by a majority vote of the board, both of which shall not be at the same meeting, and unless the same is passed over by the veto of the mayor. All ordinances shall begin by an enacting clause, as follows: "Be it enacted by the board of mayor and aldermen of Greenbrier, Tennessee" and shall at the end of the ordinance contain this provision, that "This ordinance shall take effect from and after its passage, the welfare of the city requiring it." Otherwise the same shall not take effect until twenty (20) days after its passage.

*Change 7  
December 2, 2019*

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## TITLE 1

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

#### CHAPTER

1. GOVERNING BODY.
2. CODE OF ETHICS.

#### CHAPTER 1

### GOVERNING BODY<sup>2</sup>

#### SECTION

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

**1-101. Time and place of regular meetings.** The governing body shall hold regular monthly meetings at 7:00 P.M. on the first Monday of each month at the Greenbrier Town Hall. (1970 Code, § 1-101)

**1-102. Order of business.** At each meeting of the governing body the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.

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

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

#### Municipal code references

Building, plumbing 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

Compensation: § 17.

Oath of office: § 5.

Quorum: § 6.

Term of office: § 5.

Vacancy in office: § 12.

- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the governing body, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1970 Code, § 1-102)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the governing body 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. (1970 Code, § 1-103, modified)

## CHAPTER 2

### CODE OF ETHICS

#### SECTION

- 1-201. Applicability.
- 1-202. Definition of "personal interest."
- 1-203. Disclosure of personal interest by official with vote.
- 1-204. Disclosure of personal interest in nonvoting matters.
- 1-205. Acceptance of gratuities, etc.
- 1-206. Use of information.
- 1-207. Use of municipal time, facilities, etc.
- 1-208. Use of position or authority.
- 1-209. Outside employment.
- 1-210. Ethics complaints.
- 1-211. Violations.

**1-201. Applicability.** This 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. (as added by Ord. #07-02, May 2007)

**1-202. Definition of "personal interest."** (1) For purposes of §§ 1-203 and 1-204 "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), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(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. (as added by Ord. #07-02, May 2007)

**1-203. Disclosure of personal interest by official with vote.**<sup>1</sup> 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 from voting on the measure. (as added by Ord. #07-02, May 2007)

**1-204. Disclosure of personal interest in nonvoting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible; the interest on a form provided by and filed with the city 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. (as added by Ord. #07-02, May 2007)

**1-205. 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. (as added by Ord. #07-02, May 2007)

**1-206. 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. (as added by Ord. #07-02, May 2007)

**1-207. 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

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<sup>1</sup>A copy of the City of Greenbrier, Tennessee's Disclosure of personal interest is included at the end of this chapter as Exhibit A.

lease that is determined by the governing body to be in the best interest of the municipality. (as added by Ord. #07-02, May 2007)

**1-208. 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. (as added by Ord. #07-02, May 2007)

**1-209. 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. (as added by Ord. #07-02, May 2007)

**1-210. 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 that the governing body 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. (as added by Ord. #07-02, May 2007)

**1-211. 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. (as added by Ord. #07-02, May 2007)

**Exhibit A****City of Greenbrier, Tennessee****Disclosure of Personal Interest**

This form should be filled out and filed with the City Recorder by any municipal employee or official, except those who serve on boards or other bodies, who must exercise discretion relative to any matter and who has a personal interest in the matter. A personal interest is any financial, ownership, or employment interest in a matter to be regulated or supervised by the employee or official that could affect the employee's or official's discretion. This includes any financial, ownership, or employment interest of the employee's or official's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren). "Employment interest" includes any situation in which the employee or official or one or more of his or her family members designated above is negotiating possible employment with a person or organization that is to be regulated or supervised by the employee or official in carrying out municipal business. Use item 1 of this form to report individual occurrences and item 2 to make a yearly report of situations that will occur more than once during a calendar year.

Name of Employee or Official: \_\_\_\_\_

**1. Individual occurrence**

Briefly describe the situation in which you must exercise discretion and in which you have a personal interest that could affect that discretion:

\_\_\_\_\_

**2. Continual occurrences**

For individuals, businesses, or entities the municipality will enter into transactions with more than once each calendar year and in which you have a personal interest, you may make one (1) disclosure for the calendar year by reporting here:

Name of Individual, Business, or Entity \_\_\_\_\_

Briefly describe the transactions that will take place between the municipality and the named entity during the calendar year in which you will exercise discretion and in which you have a personal interest that could affect that discretion:

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Employee's or Official's Signature

(as added by Ord. #07-02, May 2007)

## TITLE 2

### BOARDS AND COMMISSIONS, ETC.

#### CHAPTER

#### 1. PARKS AND RECREATION ADVISORY BOARD.

#### CHAPTER 1

#### PARKS AND RECREATION ADVISORY BOARD

#### SECTION

- 2-101. Board created.
- 2-102. Members and term of office.
- 2-103. Chairman to be elected and by - laws adopted.
- 2-104. Mayor to be ex-officio member.
- 2-105. Copy of minutes of all meetings to board of mayor and aldermen.

**2-101. Board created.** There is hereby created a Parks and Recreation Advisory Board for the Town of Greenbrier. (as added by Ord. #98-15, Aug. 1998)

**2-102. Members and term of office.** The following bona fide residents of Town of Greenbrier are appointed to serve as the first board with terms of office as are described below:

|                            |             |
|----------------------------|-------------|
| CHARLES DEREK HAMILTON     | ONE YEAR    |
| JAMES DUNCAN WILLIAMS      | TWO YEARS   |
| JEFFREY RAY DICKERSON      | TWO YEARS   |
| MELINDA EARL-CONWELL       | THREE YEARS |
| CLIFTON WEATHERS HORN      | THREE YEARS |
| JAMES STEVEN SORRELLS      | FOUR YEARS  |
| LINDA SUZANNE STUBBLEFIELD | FOUR YEARS  |

(as added by Ord. #98-15, Aug. 1998)

**2-103. Chairman to be elected and by-laws adopted.** The above appointed members shall meet within thirty (30) days from the passage of this chapter for the purpose of electing a chairman and adopting by-laws. (as added by Ord. #98-15, Aug. 1998)

**2-104. Mayor to be ex-officio member.** The mayor to be ex-officio member of this board, and shall be responsible for coordinating meeting places, announcements, minutes and logistical matters in order to expedite the board's function. (as added by Ord. #98-15, Aug. 1998)

**2-105. Copy of minutes of all meetings to board of mayor and aldermen.** The board shall send copies of minutes of all meetings to the board of mayor and aldermen. (as added by Ord. #98-15, Aug. 1998)

**TITLE 3**

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

**CHAPTER**

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. BONDS AND APPEALS.

**CHAPTER 1**

**CITY JUDGE**

**SECTION**

3-101. City judge.

**3-101. City judge.** The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1970 Code, § 1-301)

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<sup>1</sup>Charter reference: § 18.

## 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 and costs.
- 3-204. Disturbance of proceedings.
- 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; whether committed to workhouse; and all other information that may be relevant. (1970 Code, § 1-302)

**3-202. Imposition of fines, penalties, and costs.** All fines, 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 to be found guilty, the city judge shall impose court costs, in addition to all fines and penalties, in the amount of seventy dollars (\$70.00) which shall not include the cost of the state and local litigation tax or the one dollar (\$1.00) fee to be forwarded 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, except for those cases determined to be dismissed with cost.

The board of mayor and aldermen may establish a schedule of fines and costs of violators who choose to plead guilty or are found guilty if the board should determine that it is in the city's best interest to do so. (1970 Code, § 1-308, as amended by Ord. #14-12, Oct. 2014, and replaced by Ord. #19-04, May 2019 *Ch 7\_12-2-19*)

**3-203. Disposition and report of fines and costs.** All funds coming into the hands of the town recorder in the form of fines, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the governing body 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. (1970 Code, § 1-311, modified)

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making

loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1970 Code, § 1-312)

**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. (1970 Code, § 1-306)

**CHAPTER 3****BONDS AND APPEALS****SECTION**

3-301. Appeals.

**3-301. 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 appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1970 Code, § 1-309)

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

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

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

**CHAPTER 1****SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES****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.
- 4-106. Exclusions.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this municipality to provide for all eligible employees and officials of the municipality, 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 municipality shall take such action as may be required by applicable state and federal laws or regulations. (1970 Code, § 1-501)

**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. (1970 Code, § 1-502)

**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. (1970 Code, § 1-503)

**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. (1970 Code, § 1-504)

**4-105. Records and reports to be made.** The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1970 Code, § 1-505)

**4-106. Exclusions.** The mayor is authorized and directed to execute an amendment to said Agreement of Jan. 1, 1955 to exclude from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of an election worker and an election official if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999 and, the adjusted amount determined under section 218 (c)(8)(B) of the Social Security Act for any calendar year, commencing on or after January 1, 2000, with respect to services performed during any such calendar year. This exclusion to be effective in and after a calendar year in which a state's modification is mailed, or delivered by other means, to the appropriate federal official. (Ord. #95-03, May 1995)

## CHAPTER 2

### PERSONNEL SYSTEM

#### SECTION

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

**4-201. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the Town of Greenbrier that is based on merit and fitness. The system shall provide 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. #95-07, March 1996)

**4-202. Coverage.** All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time employees in the town's service unless specifically placed in the exempt service.

Offices and positions of the municipal government placed in the exempt service are as follows:

- (1) All elected officials.
- (2) Members of appointed boards and commissions.
- (3) Consultants, advisers, and legal counsel rendering temporary professional service.
- (4) Town attorney.
- (5) Independent contractors.
- (6) Persons employed not more than six (6) months during a fiscal year.
- (7) Part-time employees paid by the hour and not considered regular part-time.
- (8) Volunteer personnel appointed without compensation.
- (9) City judge.

All employment positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the town charter. (Ord. #95-07, March 1996)

**4-203. Administration.** The personnel system shall be administered by the mayor, with the following duties and responsibilities:

(1) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the town 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 town charter and the municipal code.

(3) Fix and establish the number of employees in the various municipal government departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies as set forth in the town charter and code, and subject to the approval of the board of mayor and aldermen and budget limitations.

(4) Foster and develop programs for the improvement of employee effectiveness, including training, safety, and health.

(5) Maintain records of all employees subject to the provisions of this chapter of the town code which shall include each employee's class, title, pay rates, and other relevant data.

(6) Make periodic reports to the board of mayor and aldermen regarding the administration of the personnel system.

(7) 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 alderman.

(8) Prepare and recommend to the board of mayor and aldermen a pay plan for all municipal government employees.

(9) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government.

(10) Be responsible for certification of payrolls.

(11) 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. #95-07, March 1996)

**4-204. Personnel rules and regulations.** The board of mayor and aldermen shall develop and adopt rules and regulations, in the form of a policies and procedures manual, necessary for the effective administration of the personnel system. Amendments to the rules and regulations shall be made in accordance with the procedure below. (Ord. #95-07, March 1996)

**4-205. Personnel records.** The city recorder shall maintain adequate records of the employment history of every employee as specified herein. (Ord. #95-07, March 1996)

**4-206. Right to contract for special services.** The town board of mayor and alderman may 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. #95-07, March 1996)

**4-207. Discrimination.** No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in anyway 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. #95-07, March 1996)

**4-208. Amendments.** Amendments or revisions of these rules may be recommended for adoption by the board. Such amendments or revisions of these rules shall become effective after public hearing and approval via resolution of the governing body. (Ord. #95-07, March 1996)

## CHAPTER 3

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Definitions.
- 4-305. Policy statement.
- 4-306. General guidelines.
- 4-307. Hepatitis B vaccinations.
- 4-308. Reporting potential exposure.
- 4-309. Hepatitis B virus post-exposure management.
- 4-310. Human immunodeficiency virus post-exposure management.
- 4-311. Disability benefits.
- 4-312. Training regular employees.
- 4-313. Training high risk employees.
- 4-314. Training new employees.
- 4-315. Records and reports.
- 4-316. Legal rights of victims of communicable diseases.

**4-301. Purpose.** It is the responsibility of the Town of Greenbrier 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 Town of Greenbrier, 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. #93-06, Jan. 1993)

**4-302. 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 infectious material 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. #93-06, Jan. 1993)

**4-303. 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 town 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 other potentially infectious materials;
- (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. #93-06, Jan. 1993)

**4-304. Definitions.** (1) "Body fluid" - fluids that have been recognized by the Center 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. #93-06, Jan. 1993)

**4-305. 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 Center 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. #93-06, Jan. 1993)

**4-306. 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 other potentially infectious materials 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 town 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 victims' 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 30 seconds. A solution must be changed and re-mixed every 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 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 properly dispose of the objects.

(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 (5) feet 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 blood or other potentially infectious materials 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 potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #93-06, Jan. 1993)

**4-307. Hepatitis B vaccinations.** The Town of Greenbrier 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. #93-06, Jan. 1993)

**4-308. Reporting potential exposure.** Town 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. #93-06, Jan. 1993)

**4-309. 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 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. #93-06, Jan. 1993)

**4-310. 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 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 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 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 worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 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 town to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #93-06, Jan. 1993)

**4-311. 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 Worker's Compensations Bureau in accordance with the provisions of T.C.A., § 50-6-303. (Ord. #93-06, Jan. 1993)

**4-312. 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 potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #93-06, Jan. 1993)

**4-313. 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. #93-06, Jan. 1993)

**4-314. Training new employees.** During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (Ord. #93-06, Jan. 1993)

**4-315. 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 town 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. #93-06, Jan. 1993)

**4-316. 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 circumstance, 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. #93-06, Jan. 1993)

## CHAPTER 4

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-401. Enforcement.
- 4-402. Travel policy.
- 4-403. Travel reimbursement rate schedule.
- 4-404. Administrative procedures.
- 4-405. Travel policy for committees/volunteer fire.

**4-401. Enforcement.** The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #93-5, Aug. 1993)

**4-402. Travel policy.** (1) In the interpretation and application of this chapter, the term "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 town 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 town. 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 CAO. 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 town 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 town. It will be the responsibility of the CAO 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 town business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 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 town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-5, Aug. 1993)

**4-403. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The town's travel reimbursement rates will automatically change when the state 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. #93-5, Aug. 1993)

**4-404. Administrative procedures.** The town 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 recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #93-5, Aug. 1993)

**4-405. Travel policy for committees/volunteer fire.** It shall be the policy of the City of Greenbrier that all committees appointed by the mayor shall follow the same travel policies as set forth for the city officials and the employees. All travel must be previously approved by the mayor, proper request forms must be filled out, and all expenses must meet the guidelines of the State of Tennessee as adopted by the City of Greenbrier.

It shall be the policy of the City of Greenbrier to pay for training classes for the volunteer firemen, and the city will pay travel expenses as long as the travel has been approved previously by the mayor. (as added by Ord. #01-08, April 2001)

## CHAPTER 5

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

4-501. Title.

4-501. Purpose.

4-502. Coverage.

4-503. Standards authorized.

4-504. Variances from standards authorized.

4-505. Administration.

4-506. Funding the program.

**4-501. Title.** This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of City of Greenbrier. (as added by Ord. #03-02, June 2003, and replaced by Ord. #17-03, March 2017 *Ch 7\_12-1-19*)

**4-502. Purpose.** The City of Greenbrier is electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan 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 the 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) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #03-02, June 2003, and replaced by Ord. #17-03, March 2017 *Ch7\_12-1-19*)

**4-503. Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Greenbrier shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #03-02, June 2003, and replaced by Ord. #17-03, March 2017 *Ch7\_12-1-19*)

**4-504. Standards authorized.** The occupational safety and health standards adopted by the City of Greenbrier 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). (as added by Ord. #03-02, June 2003, and replaced by Ord. #17-03, March 2017 *Ch7\_12-1-19*)

**4-505. Variances from standards authorized.** Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #03-02, June 2003, and replaced by Ord. #17-03, March 2017 *Ch7\_12-1-19*)

**4-506. Administration.** For the purposes of this chapter, the city superintendent or his/her designee is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance

with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #03-02, June 2003, and replaced by Ord. #17-03, March 2017 *Ch7\_12-1-19*)

**4-507. Funding the program plan.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Greenbrier. (as added by Ord. #17-03, March 2017 *Ch7\_12-2-19*)

**TITLE 5****MUNICIPAL FINANCE AND TAXATION****CHAPTER**

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

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

- 5-101. Official depository for town funds.
- 5-102. Processing fee for credit and debit cards.

**5-101. Official depository for town funds.** The city treasurer and city superintendent shall choose the official depository for all funds for the Town of Greenbrier. (1970 Code, § 6-401, as amended by Ord. #14-05, May 2014)

**5-102. Processing fee for credit and debit cards.** (1) The Town of Greenbrier is hereby establishing a processing fee of three dollars (\$3.00) from customers using credit and debit cards as methods of payment for monthly utility charges, court fees and fines, permits (excluding building), and other fee/charges that are under two hundred dollars (\$200.00).

(2) The Town of Greenbrier is hereby establishing a processing fee of three percent (3%) from customers using credit and debit cards as methods of payment for property tax, tap fees, cemetery lots, building permits, and any other fee/charge that is over two hundred dollars (\$200.00).

(3) In the event that the credit or debit card company issuing the card does not honor payment of the charge, the city shall collect the same fee that it normally charges for returned checks, and this fee shall be in addition to the normal fee for using a credit or debit card for payment. (as added by Ord. #12-08, Jan. 2013)

## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the municipality against real property shall become due and payable annually on the first day of November of the year for which levied. (1970 Code, § 6-101, modified)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.<sup>3</sup> (1970 Code, § 6-102)

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<sup>1</sup>State law references

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

<sup>2</sup>Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

<sup>3</sup>Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

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

(continued...)

**5-203. Property tax freeze program adopted.** (1) The property tax freeze program as provided for in Chapter 581 of the Public Acts of 2007, codified in Tennessee Code Annotated, § 67-5-705, is hereby adopted by the Board of Mayor and Aldermen of the City of Greenbrier, Tennessee.

(2) The property tax freeze program shall be implemented and administered in accordance with Tennessee Code Annotated, § 67-5-705 and the rules promulgated by the State Board of Equalization through the Division of Property Assessments. (as added by Ord. #08-05, April 2008)

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(...continued)

§ 67-5-2005.

## 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. (1970 Code, § 6-201)

**5-302. License required.** No person shall exercise any such privilege within the municipality 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 tax. (1970 Code, § 6-202)

## 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 municipality 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> (1970 Code, § 6-301)

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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.

**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. (1970 Code, § 1-201)

**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. (1970 Code, § 1-202)

**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. (1970 Code, § 1-203, modified)

**6-104. When policemen to make arrests<sup>1</sup>.** 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. (1970 Code, § 1-204)

**6-105. Policemen may require assistance in making arrests.** It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1970 Code, § 1-205)

**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. (1970 Code, § 1-207)

**TITLE 7**

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

**CHAPTER**

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

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be the corporate limits of the Town of Greenbrier. (1970 Code, § 7-101)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violations.
- 7-208. Modifications.

**7-201. 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 Standard Fire Prevention Code,<sup>2</sup> 1999 edition, and the National Fire Prevention Code, latest edition, and all appendixes thereto, as recommended by the International Code Council, 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 prevention code has been filed with the recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1970 Code, § 7-201, modified, as amended by Ord. #99-11, Oct. 1999)

**7-202. Enforcement.** The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1970 Code, § 7-202)

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Greenbrier, Tennessee. (1970 Code, § 7-203)

**7-204. Storage of explosives, flammable liquids, etc.** The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosive

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

materials is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 902.1.1 of the fire prevention code, in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1970 Code, § 7-204)

**7-205. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1970 Code, § 7-205)

**7-206. Variances.** The chief of the fire department may recommend to the governing body variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the governing body. (1970 Code, § 7-206)

**7-207. Violations.** It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention 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 governing body of the municipality or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the town code shall not be held to prevent the enforced removal of prohibited conditions. (1970 Code, § 7-207)

**7-208. Modifications.** Within said code, when reference is made to the duties of a certain official named therein, that designated official of the Town of Greenbrier, Robertson County, Tennessee, who has duties corresponding to

those of the named official in said code shall be named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (as added by Ord. #99-11, Oct. 1999)

## CHAPTER 3

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

#### SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Operational funds.
- 7-303. Objectives.
- 7-304. Organization, rules, and regulations.
- 7-305. Records and reports.
- 7-306. Disciplinary action.
- 7-306. Chief responsible for training.
- 7-308. Chief to be assistant to state officer.
- 7-309. Use of equipment outside town limits.
- 7-308. Fire hydrants required to be color coded.

**7-301. 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 and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased with the approval of the fire chief in accordance with municipal purchasing requirements and shall be and remain the property of the town. The fire department shall be composed of a chief appointed by the board of mayor and aldermen, and such number of subordinate officers and firemen, as may be recommended by the fire chief. The fire department shall consist of no more than 40 volunteers in addition to the fire chief and all officers and such paid firefighters as shall be provided for in the annual operating budget of the city. (1970 Code, § 7-301, as replaced by Ord. #01-14, Sept. 2001)

**7-302. Operational funds.** The board of mayor and aldermen shall provide for the operations of the fire department in its annual budget. Any funds raised by the fire department auxiliary, or by any individual or group of volunteer firemen may be accepted by the board of mayor and aldermen and may be used for purposes designated by the respective contributors. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the Town of Greenbrier. The board of mayor and aldermen may reject any gift or contribution it deems not to be in the best interest of the Town of Greenbrier. (1970 Code, § 7-302, as replaced by Ord. #01-14, Sept. 2001)

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<sup>1</sup>Municipal code references

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

Travel policy: title 4, chapter 4.

**7-303. Objectives.** The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To 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.
- (7) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable.
- (8) To provide code enforcement and building inspections as directed by the town within adopted codes and ordinances.
- (9) To serve as the emergency management agency of the town.
- (10) To protect the health and safety of the citizens from the transportation, storage, or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow.
- (11) To work with the water department to insure that adequate water supplies for fire protection are available.
- (12) To provide public fire education materials and information to the citizens in order that they may protect themselves from harm. (1970 Code, § 7-303, as replaced by Ord. #01-14, Sept. 2001)

**7-304. Organization, rules, and regulations.** The chief of the Town of Greenbrier Fire Department shall, under the direction of the board of mayor and alderman, set up the organization of the department, make work assignments to individuals, based on input, suggestions and recommendations from the members of the volunteer fire department, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1970 Code, § 7-304, as replaced by Ord. #01-14, Sept. 2001)

**7-305. Records and reports.** The chief of the Town of Greenbrier Fire Department shall prepare the annual departmental budget to be approved by the board of mayor and aldermen, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports to the mayor, as the mayor requires. The mayor shall submit such written reports to the board of mayor and aldermen, as the board of mayor and aldermen requires. (1970 Code, § 7-305, as replaced by Ord. #01-14, Sept. 2001)

**7-306. Disciplinary action.** Any disciplinary action to be taken with regard to any firefighter shall follow those procedures as contained under the Town of Greenbrier Personnel Policies and Procedures when such action is deemed to be necessary for the good of the department. The chief may be

suspended up to thirty (30) days by the mayor. However, only the board of mayor and aldermen shall dismiss the fire chief. (1970 Code, § 7-306, as replaced by Ord. #01-14, Sept. 2001)

**7-307. Chief responsible for training.** The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the board of mayor and aldermen. Each volunteer firefighter and/or officer shall receive no less than forty hours of in-service firefighter training annually, after an initial training period consisting of no less than sixteen hours of basic firefighter training during the first ninety days of his membership in the fire department. Paid firefighters shall be trained in accordance with the standards of the Tennessee Commission on Firefighter Standards and Education. (1970 Code, § 7-308, as replaced by Ord. #01-14, Sept. 2001)

**7-308. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of 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 commissioner in the execution of the provisions thereof. (as added by Ord. #01-14, Sept. 2001)

**7-309. Use of equipment outside town limits.** Personnel and/or equipment of the Town of Greenbrier Fire Department may be used for fighting any fire outside the town limits if:

(1) In the opinion of the fire chief, the fire is in such hazardous proximity to property owned or located within the town as to endanger the town property;

(2) The board of mayor and aldermen has developed policies for providing emergency services outside the town limits or entering into a contract or mutual aid agreement pursuant to the authority of

(a) The Local Government Emergency Assistance Act of 1987, as amended, codified in Tennessee Code Annotated, § 58-2-601 et seq.

(b) Tennessee Code Annotated, § 12-9-101 et seq. or

(c) Tennessee Code Annotated, § 6-54.601. (as amended by Ord. #01-14, Sept. 2001)

**7-310. Fire hydrants required to be color coded.** After installation, all new fire hydrants shall be tested for flow and residual pressure. Existing fire hydrants shall be tested upon the next scheduled maintenance cycle. All fire hydrants shall be color coded according to the standard color scheme of the National Fire Prevention Association as listed herein.

The top bonnet and nozzle caps of each hydrant shall be painted with the appropriate standard color designation to indicate the flow capacity of each hydrant. The color schemes of the hydrant top bonnet and nozzle caps, along with the corresponding flow rates and hydrant classes, shall be as follows:

| <u>Hydrant Class</u> | <u>Flow Rate @ 20 PSI</u> | <u>Color</u> |
|----------------------|---------------------------|--------------|
| Class AA             | 1,500 GPM and Above       | Light Blue   |
| Class A              | 1,000 GPM - 1,499 GPM     | Green        |
| Class B              | 500 GPM - 999 GPM         | Orange       |
| Class C              | 0 GPM - 499 GPM           | Red          |

Any hydrant which is unable to maintain a residual pressure of at least 20 psi at full open flow shall have its rated residual pressure plainly stenciled on the top bonnet of the hydrant.

Fire department pumpers shall not pump from any Class C hydrant. (Ord. #90-2, April 1990)

## CHAPTER 4

### FIRE SERVICE OUTSIDE TOWN LIMITS

#### SECTION

7-401. Equipment to be used only within corporate limits generally.

**7-401. 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 town property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the town as to endanger the town property or unless expressly authorized in writing by the municipal governing body.<sup>1</sup> (1970 Code, § 7-307)

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<sup>1</sup>See Ord. #96-04 which is a mutual aid agreement between the Town of Greenbrier and the County of Robertson, pursuant to Tennessee Code Annotated, § 6-54-601, of record in the office of the recorder.

## CHAPTER 5

### FIREWORKS

#### SECTION

7-501. Unlawful acts in the sale of fireworks.

7-502. Definitions.

7-503. Deleted.

7-504. Deleted.

7-505. Use within city limits.

7-506. Fireworks for public health purposes.

**7-501. Unlawful acts in the sale of fireworks.** It is unlawful to offer for sale or to sell fireworks within the corporate limits of the Town of Greenbrier, Tennessee. (1970 Code, § 7-401, as replaced by Ord. #00-03, April 2000, and deleted and replaced by Ord. #15-04, July 2015)

**7-502. Definitions.** (1) Fireworks for purposes of this chapter is defined in the same manner as fireworks are defined in Tennessee Code Annotated, § 68-104-101(2) as it may hereafter be amended. Furthermore, fireworks can include but not limited to any device containing explosive forces which when fired, shot, or exploded, makes a noise or produces a flare or colored sparks, and said term "fireworks" shall be deemed to include but shall not be limited to the following: fire crackers, squibbs, Roman candles, sky rockets, and torpedoes.

(2) Sale of fireworks for purposes of this chapter is defined as a means of an exchange of articles of fireworks for money and/or a transaction for profit involving fireworks. (1970 Code, § 7-402, as replaced by Ord. #00-03, April 2000, and deleted and replaced by Ord. #15-04, July 2015)

**7-503. Deleted.** (1970 Code, § 7-403, as replaced by Ord. #00-03, April 2000, and deleted by Ord. #15-04, July 2015)

**7-504. Deleted.** (1970 Code, § 7-404, as replaced by Ord. #00-03, April 2000, and Ord. #11-03, May 2011, and deleted by Ord. #15-04, July 2015)

**7-505. Use within city limits.** The restricted seasonal use of D.O.T. Class C common fireworks shall be allowed within the city limits only during the periods extending from June 20 to July 5 and from December 10 to January 2. Such use shall only be allowed on private residential property, with the permission of the owner of the property, and not on property used for industrial, commercial or agricultural purposes or on publicly owned property, streets or rights-of-way. Such use shall be in a manner that is not dangerous to persons or hazardous to property. The restricted seasonal use of D.O.T. Class C common

fireworks shall be limited to the time period extending from 9:00 A.M. to 10:00 P.M. each day. (1970 Code, § 7-405, as replaced by Ord. #00-03, April 2000)

**7-506. Fireworks for public health purposes.** The codes administrator may, at anytime, authorize the restricted use of D.O.T. Class C common fireworks for public health purposes in order to disperse flocks of blackbirds and other bird pests. A permit for the restricted use of fireworks for public health purposes shall be issued and signed by the codes administrator or his or her designate before the approved fireworks can be discharged. The permitted fireworks shall be handled and discharged by a competent person approved by the codes administrator or his or her designate. The duration of the permit and the quantity of the permitted fireworks shall be the minimum needed to accomplish the public health purpose. The permitted fireworks shall be located and discharged in a manner that shall not be dangerous to any persons or hazardous to property. (1970 Code, § 7-406, as replaced by Ord. #00-03, April 2000)

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

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the city recorder.
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- 8-122. Inspection fee.
- 8-123. Regulations for purchase and sale of intoxicating liquors.
- 8-124. Solicitation.
- 8-125. Regulations of retail sales.
- 8-126. Failure to pay inspection fee.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

- 8-127. Mayor to determine if provisions are being complied with.  
8-128. Violation and penalty.  
8-129. Visible possession prohibited.

**8-101. Definition of alcoholic beverages.** As used in this chapter, unless the context indicates otherwise: Alcoholic beverages means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (1970 Code, § 2-101, as replaced by Ord. #12-09, Jan. 2013, and Ord. #14-14, Jan. 2015)

**8-102. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Greenbrier, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Greenbrier, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the Town of Greenbrier general fund to be paid annually as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Greenbrier on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-104. Annual privilege tax to be paid to the city recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Greenbrier shall remit annually to the city recorder the appropriate tax described in § 8-103. 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. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-105. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-106. Location restrictions.** It shall be unlawful for any person to operate an establishment that sells alcoholic beverages for on premises consumption in the Town of Greenbrier located in a zone that is not designated for such sales. All establishments shall be located within the CB zone on the official zoning map of the Town of Greenbrier on the date of application. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-107. Certificate of compliance.** After the issuance of a state license by the Tennessee Alcoholic Beverage Commission for on premise consumption, the licensee will provide a copy to the city recorder. The city recorder will issue a certificate of compliance valid for one year. Upon the payment of privilege tax each year, a new certificate will be issued. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-108. License from town to operate liquor store.** (1) After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to Tennessee Code Annotated, § 57-3-101, et seq., he or she shall apply to the city recorder for a local liquor retailer's license to operate a retail liquor store pursuant to the following terms, conditions and restrictions.

(2) **Term renewal.** Each license shall expire on December 31 st of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) **Display.** A licensee shall display and post and keep displayed and posted his or her license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) **Transfer.** A licensee or co-licensee shall not sell, assign or transfer his or her license or any interest therein to any other person. No license shall be transferred from one (1) location to another location without the express permission of board of aldermen.

(5) **Fees.** A license fee of five hundred dollars (\$500.00) is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the

calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall be issued. In the event of co-licensees, only one (1) license fee is required. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-16, Jan. 2015)

**8-109. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this municipality except as provided by Tennessee Code Annotated, title 57, by rules and regulations promulgated thereunder, and as provided in this chapter. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-110. Definitions.** Whenever used herein unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight, or less.

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

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

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

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

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

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

(8) "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 climate, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly the word "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" wherever used shall be construed to mean one-eighth (1/8) of a wine gallon.

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

(11) The term "federal license" as used herein shall not mean tax receipt or permit. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-111. Selling prohibited within corporate limits.** No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits except to a duly licensed local city retailer, as provided herein. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-112. License required.** (1) Before any person or other legal entity (the "applicant") shall receive a license for the establishment of a retail liquor store, the applicant shall make application for a license for a specific location and be granted such license for such specific location by the board of mayor and aldermen as required by Tennessee Code Annotated, § 57-3-208. When the applicant which intends to obtain a liquor license is a legal entity owned, directly or indirectly, by a combination of persons and/or entities, the group of persons owning an interest, directly or indirectly, in the application is referred to herein as the "applicant group." The application for the license shall be filed with the city recorder giving the following information:

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

(b) The name of the retail liquor store proposed;

(c) The address of the retail liquor store proposed and it's zoning designation;

(d) Number of years applicant and persons in applicant group have been residents in or have owned residential or commercial property within Greenbrier City Limits, zip code, urban growth boundary (minimum of two years required);

(e) The name of the licensee and the address of other retail liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group member holding each interest;

(f) Occupation or business and name and location of such business, of applicant and persons in applicant group and length of time engaged in such occupation or business;

(g) Whether or not the applicant or any persons in the applicant group has been convicted within the ten (10) year period immediately preceding the date of the application of any violation of any state or federal law or of any violation of any municipal ordinance (with the exception of minor traffic violations such as speeding or traffic signal violations, but not excepting alcohol related violations), and, if so, provide the details of such violation (i.e., charging entity, citation to and copy of law convicted of violating, copy of charge, etc.);

(h) If employed, the name and address of the employer;

(i) The name and address of the owner of the real property of the proposed location and the amount to be paid for rent or purchase, together with a letter from such owner affirming either (i) that the parties have reached a written agreement on the terms of a lease and setting forth the amount of the rent provided for in the agreement, or (ii) that the parties have reached a written agreement on the terms of a sale of the premises to the applicant;

(j) The amount of money invested or to be invested, and the source of funds to be used, and, if borrowed, the name of the person from whom borrowed, the name of the bank with which the applicant does business, and the name of any person who is aiding the venture financially, either by a loan or guaranty;

(k) The name of any person who will have any interest, direct or indirect, in the business of the applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail liquor license;

(l) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the business, and a certification that that individual has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application, and if the applicant is a corporation the identity of the officer or employee who will be in actual charge of the day-to-day operations of the business and that such officer or employee has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(m) Proof of citizenship of owner(s) and any person(s) employed by business

(n) A statement that the persons receiving the requested license to the best of their knowledge if awarded the license could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of retail liquor stores in the city; and

(o) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission and the City of Greenbrier with reference to the

sale of alcoholic beverages, and the further agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of these regulations, inspection fees, and taxes provided in this title with reference to the sale of alcoholic beverages.

(2) Each application shall be accompanied by a non-refundable investigation fee of seven hundred fifty dollars (\$750.00) and an additional one hundred dollars (\$100.00) for each additional background check.

(3) Further documentation:

(a) The application shall be accompanied by six (6) copies of a site plan drawn to a scale of not less than one inch equals twenty feet (1" = 20') giving the following information:

(i) The shape, size and location of the lot which the retail liquor store is to be operated under the license;

(ii) The shape, size, height and location of all building(s) whether they are to be erected, altered, moved or existing upon the lot; and

(iii) The off-street parking space and off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street.

(b) A written certification by the applicant that the premises of the proposed retail liquor store are in full and complete compliance with the distance requirements of this chapter; and, that the applicant has taken steps to verify compliance with the distance requirements. To the extent that the applicant has documentation of such verification, or the process of verification, then applicant shall submit such documentation with the application.

(c) In the case where the applicant is a partnership, the application shall be accompanied by a copy of the partnership agreement and an indication of who are general partners and who are limited partners, if any, and for each partner the profit sharing percentage in the partnership;

(d) In the case where the applicant is a corporation or limited liability company, the application shall be accompanied by a copy of the corporate charter or the operating agreement and a list of shareholders/members with their ownership percentage, a list of officers/managers and a list of names and addresses of directors.

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

(5) Misrepresentation-concealment of fact-duty to amend. If any applicant, member of an applicant group, or licensee either intentionally or innocently misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group or licensee shall be deemed to have

violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by the board.

In addition, if an application submitted does not contain the information required by this chapter, it will not be deemed filed until all information has been submitted in writing. It shall be the duty of the applicant to determine and submit the information required.

(6) As of this date, two (2) liquor stores have been permitted and established within the city. In issuing the required license for the licensing of additional liquor stores in the city permitted by this chapter, the board will consider all applications filed before a closing date to be fixed by it and select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of the city for the lawful operation of liquor stores without regard to the order of time in which the applications are filed. Such persons and only such persons so selected shall receive the additional licenses issued by the city. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-113. Limitations on issuance of license.** (1) 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 closer than three hundred feet (300') as measured from the main and principal front entrance of such business at such premises of licensee to the main and principal front entrance of a church, school, or library; a retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the mayor, unless the location is approved in writing by the mayor. Said approval by the mayor must be authorized by approval of majority of board of mayor and aldermen.

(2) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages in a building structure that provides less than one thousand two hundred fifty (1,250) square feet of floor space.

(3) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages on property not properly zoned for such use according to the Greenbrier Zoning Ordinance.

(4) No more than one (1) license will be issued in each sector of the city limits. The sectors are defined as follows:

North Sector - On Highway 41, Northern City Limit line to Industrial Drive

South Sector - On Highway 41, Industrial Drive to Southern City Limit line. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-114. Limitations on number of licenses.** (1) No more than one (1) license for each three thousand (3,000) population for the sale of alcoholic beverages shall be issued under this chapter. Further, that the population limitations and restrictions as provided for above shall not be decreased unless, first, a public notice of such proposed change is published at least one (1) time fifteen (15) days before the first reading on such proposed amendment.

(2) No license shall be issued to any person or persons unless such person or persons' legal residence has been within Greenbrier City Limits, zip code, urban growth boundary, or such person or persons has privately owned residential or commercial property within Greenbrier City Limits, for at least two (2) years prior to submittal of an application for retail license.

Likewise, no license shall be issued to any partnership or corporation unless the partnership's or corporation's principal place of business has been within the Greenbrier City Limits, zip code, urban growth boundary for at least two (2) years prior to submittal of an application for the retail license. Thereafter, any change in such residence(s) or place of business, whereby such would be outside this area, such change must be approved by a majority of the board of mayor and aldermen. However, in any event, such persons, partners' and stockholders' legal residence, and, in the case of a partnership or corporation, its principal place of business and office, must be within the State of Tennessee. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-115. Bonds of licensees.** Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee; bonds of retailers shall be five hundred dollars (\$500.00). Said bond shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-116. Retailer's license.** (1) 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 any 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. The foregoing shall not apply to uncompensated appointees to municipal boards and commissioners where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(2) 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 the concern 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.

(3) 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 sale, possession, transportation, 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, or as they existed or may exist thereafter.

(4) 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.

(5) 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, 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 mayor and approved by him. Where such interests 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 the seller and the purchaser.

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

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) 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 so 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.

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

(10) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-117. Display of license.** Persons granted a license to carry on the business or undertaking contemplated therein 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. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-118. Transfer of permits restricted.** The holder of a license may not sell, assign or transfer such license to any other person unless same is approved by a majority of the board of mayor and aldermen and the state commissioner 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 force of the United States in the 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. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-119. Expiration date of license.** Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-120. 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. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-121. Federal license, effect of.** The possession of any 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. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-122. Inspection fee.** The following shall apply regarding inspection fees:

(1) There is hereby imposed an inspection fee on all gross purchases of alcohol beverages made by licensees under this chapter. Said fee to be at the maximum amount as provided for in Tennessee Code Annotated, § 57-3-501.

(2) The inspection fee shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(3) Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the City of Greenbrier as hereinafter provided.

(4) Each wholesaler making sales to retailers located within the corporate limits of the City of Greenbrier shall furnish the City of Greenbrier a report monthly, which report shall contain the following:

(a) The name and address of the retailer;

(b) The wholesaler's price of the alcoholic beverages sold to such retailer;

(c) The amount of tax due under this section; and

(d) Such other information as may be required by the Board of Mayor and Aldermen of the City of Greenbrier. The monthly report shall be furnished to the city recorder of Greenbrier not later than the twentieth (20th) of the month following which the sales were made; and the inspection fees collected by the wholesaler from the retailers located within the City of Greenbrier shall be paid to the City of Greenbrier at the time the monthly report is made. Wholesalers collecting and remitting the inspecting fee to the City of Greenbrier 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 the City of Greenbrier.

(5) Each wholesaler who fails to collect and/or remit in a timely matter the inspection fee imposed hereunder shall be liable in addition to the tax for a penalty of ten percent (10%) of the fee due the City of Greenbrier which shall be payable to the City of Greenbrier.

(6) The City of Greenbrier shall have the authority to audit the records of all wholesalers subject to the provisions of this section in order to determine

the accuracy of said monthly report. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-123. Regulations for purchase and sale of intoxicating liquors.**

(1) It shall be unlawful for any person in this city 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. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-124. Solicitation.** 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 places of business of such consumer, nor shall any such license receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph 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. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-125. Regulation of retail sales.** (1) No retailer shall directly or indirectly, operate more than one (1) place of business in this municipality 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 shall any retailer selling alcoholic beverages sell, lend or give away 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 retail store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday and between ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday.

(5) No retailer shall sell, lend or give away any alcoholic beverages upon Christmas Day, Thanksgiving Day, or Easter.

(6) 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.

(7) No retailer as herein defined shall own, store or possess upon the licensed premises any unstamped merchandise required by the laws of

Tennessee to have affixed thereto revenue stamps of said state, hereunder fails to account for or pay over to the finance director any inspection fee, or defaults in any of the conditions of his bond, the mayor and/or finance director shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such inspection fee. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-126. Failure to pay fees.** Whenever any of the persons licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the mayor shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-127. Mayor to determine if provisions are being complied with.** The mayor and/or designated agent thereof is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. The refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises, shall constitute, sufficient reason for the revocation of a license or the refusal to issue a license. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-128. Violation and penalty.** Any violation of the terms of this chapter shall be punishable by a fine of not more than five hundred dollars (\$500.00); in such cases, suspension of said license by mayor for thirty (30) days shall be mandatory, and in the discretion of the board of mayor and aldermen may be cause for revocation of said license. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-129. Visible possession prohibited.** Visible possession of alcoholic beverages in unsealed container upon any public street or within any governmental building shall be a violation of this chapter. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

## CHAPTER 2

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

#### SECTION

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

**8-201. Beer board established.** There is hereby established a beer board to be composed of five (5) members. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. Board members shall each serve four (4) year terms, barring their conviction of any crime involving moral turpitude or their being removed from office by a simple majority vote of the board of mayor and aldermen. To qualify for appointment and continued service on the board, one must reside in the city for at least one (1) year prior to appointment and be registered to vote. (1970 Code, § 2-201, as replaced by Ord. #03-06, Sept. 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

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<sup>1</sup>State law reference

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

meeting at any time to another time and place. (as added by Ord. #03-06, Sept. 2003)

**8-203. Record of beer board proceedings to be kept.** The city recorder, or their designee, shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (as added by Ord. #03-06, Sept. 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 majority of the members present if a quorum is constituted. Any member present but not voting but shall be deemed to have cast a "nay" vote, however, a declaration of "pass" or "abstention" shall not be deemed a "nay" vote. (as added by Ord. #03-06, Sept. 2003, and replaced by Ord. #07-14, Sept. 2007)

**8-205. Powers an duties of the beer board.** The beer board shall have the power and is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as added by Ord. #03-06, Sept. 2003)

**8-206. Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (as added by Ord. #03-06, Sept. 2003)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101 (b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Greenbrier. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. (as added by Ord. #03-06, Sept. 2003)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint-stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, to the City of Greenbrier, 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. (as added by Ord. #03-06, Sept. 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. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

(1) **"On-premise" permit.** No on-premise permits will be issued authorizing the storage, sale, or manufacturing of beer unless the permittee meets the following qualifications defining a restaurant: a restaurant shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, each place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least seventy-five (75) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations, and periods of redecorating, and the serving of such meals shall be the principal business conducted; further, to qualify as a "restaurant" hereunder, receipts from the sale of food shall be at least sixty percent (60%) of the total gross receipts in any consecutive month period for the business establishment.

(2) **"Off-premise" permit.** No off-premises type permit will be issued authorizing the storage, sale or manufacturing of beer within one hundred (100) feet of any school (public or private) or church as measured on a straight line from the nearest point of the school or church to the nearest point of the building or structure where beer is stored, sold or manufactured, excepting that this provision shall not be applicable to the renewal of any existing permit. (as added by Ord. #03-06, Sept. 2003)

**8-210. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within one hundred (100) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 2003, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 2003. (as added by Ord. #03-06, Sept. 2003)

**8-211. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (as added by Ord. #03-06, Sept. 2003)

**8-212. Prohibited conduct or activities by beer permit holders, their agents, and/or employees.** It shall be unlawful for beer permit holders, their agents and/or employee(s) to:

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

(2) Allow any person under eighteen (18) years of age to loiter in or around, or otherwise frequent any place where beer is sold at retail for consumption on the premises. This section does not prohibit the otherwise lawful patronage by minors of establishments whose primary activity is lawful activity other than the sale of beer or alcohol. Primary activity for purposes of this section means that at least seventy-five percent (75%) of the gross receipts of the establishment are the result of activity other than the sale of beer or alcohol. The beer permit holder shall furnish such documentation as may be required to the city to establish this percentage.

Beer permit holders whose primary activity, as defined above, is lawful activity other than the sale of beer or alcohol, may employ minors under eighteen (18) years of age. However, persons under eighteen (18) years of age who work in beer places shall not be allowed to touch, handle or move any glass, mug, can, bottle, package, carton, case, keg or other container in which beer is served, held or kept in storage. Persons under eighteen (18) years of age may work in beer places only between the hours of 6:00 a.m. and 10:00 p.m.

A violation of this subsection is unlawful. In addition, a violation of this subsection shall subject the beer permit holder to the penalties and procedures set forth in this chapter.

(3) Deleted.

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

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

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

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

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

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

(10) Allow gambling on his premises.

(11) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(12) Allow beer to be distributed through sale or otherwise, from any vending apparatus or machine.

(13) Allow any loud, unusual, or obnoxious noises to emanate from his premises. (as added by Ord. #03-06, Sept. 2003, and amended by Ord. #14-15, Jan. 2015)

**8-213. Revocation of beer permits.** (1) The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

(2) In the event a permit holder is a "responsible vendor" as defined in Tennessee Code Annotated, § 57-5-603, the beer board shall not revoke or suspend said responsible vendor's permit.

(3) Permanent revocation of beer permits shall be issued when the permit holder has at least two (2) violations within a twelve (12) month time period. (as added by Ord. #03-06, Sept. 2003, and amended by Ord. #08-02, Jan. 2008)

**8-214. Civil penalty in lieu of suspension.** The beer board shall impose the following civil penalties on a permit holder for each offense of making or permitting to be made any sales to minors or any other offense of the provisions of this chapter.

(1) For a violation of this chapter that is a first (1<sup>st</sup>) offense, permit holder shall be required to pay a civil penalty of one thousand five hundred dollars (\$1,500).

(2) For a violation of this chapter that is a second (2<sup>nd</sup>) offense, within a seven hundred sixty (760) day period from the first offense, the permit holder shall have his permit suspended for a period of seven (7) days which shall begin five (5) days from the hearing before the beer board

(3) For a violation of this chapter that is the third (3<sup>rd</sup>) offense, within a seven hundred sixty (760) day period for the first offense, the permit holder shall have his permit suspended for a period of fourteen (14) days which shall begin five (5) days from the hearing before the beer board.

(4) For a violation of this chapter that is the fourth (4<sup>th</sup>) offense within a seven hundred sixty (760) period of the first offense, the permit holder shall have his permit revoked. Permit holder shall have the option to reapply for apply for a new permit no sooner that three hundred sixty five (365) days from the date of the hearing before the beer board.

(5) In the event a permit holder is a "responsible vendor" pursuant to Tennessee Code Annotated, § 57-5-603, said board shall assess a civil penalty of one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors. (as added by Ord. #03-06, Sept. 2003, replaced by Ord. #06-06, May 2006, and amended by Ord. #08-02, Jan. 2008)

**8-215. Violations.** Except as provided in § 8-214, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #03-06, Sept. 2003)

**TITLE 9****BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. PINBALL MACHINES, ETC.
4. CABLE TELEVISION.
5. ADULT ORIENTED BUSINESS ESTABLISHMENTS.
6. YARD SALES.

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

9-101. "Going out of business" sales.

**9-101. 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, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1970 Code, § 5-102)

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<sup>1</sup>Municipal code references

Building, plumbing and housing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

**CHAPTER 2****PEDDLERS, ETC.**<sup>1</sup>**SECTION**

9-201. Not permitted.

**9-201. Not permitted.** It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to sell, inform, or give away any printed materials, labor, or products of his trade within the corporate limits. This does not apply to religious organizations or political and campaign organizations. (1970 Code, § 5-201, modified, as replaced by Ord. #18-14, Dec. 2018 *Ch7\_12-2-19*)

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

**CHAPTER 3****PINBALL MACHINES, ETC.****SECTION**

9-301. Pinball machines, etc. prohibited.

**9-301. Pinball machines, etc. prohibited.** It shall be unlawful for any person, firm, or corporation to own, operate, or maintain any pinball machines, or horserace machines, or baseball machines or similar devices in public places in the Town of Greenbrier, Tennessee. (1970 Code, § 5-601)

## CHAPTER 4

### CABLE TELEVISION

#### SECTION

9-401. To be furnished under franchise.

**9-401. To be furnished under franchise.** Cable television service shall be furnished to the Town of Greenbrier and its inhabitants under franchise as the governing body shall grant. The rights, powers, duties and obligations of the Town of Greenbrier 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. #17-20 dated November 6, 2017 in the office of the city recorder.

## CHAPTER 5

### ADULT ORIENTED BUSINESS ESTABLISHMENTS

#### SECTION

- 9-501. Purpose and intent; findings.
- 9-502. Definitions.
- 9-503. License to operate - general.
- 9-504. Same application.
- 9-505. Employees and entertainers/performers permits; application.
- 9-506. Investigations of applicants' qualifications.
- 9-507. Qualifications for license to operate, permit.
- 9-508. Inspections; notice of results.
- 9-509. Injunctions.
- 9-510. Revocation, suspension or annulment of licenses.
- 9-511. Termination and renewal of licenses and permits; applications; fees.
- 9-512. Prohibited hours of operation; hours open for inspection.
- 9-513. Duties and responsibilities of operators, entertainers/  
performers/ employees.
- 9-514. Prohibited activities.
- 9-515. Exhibition of films, videos or live sex shows in booths, cubicles, rooms  
or stalls.
- 9-516. Display of license.
- 9-517. Adult entertainment appeals board - created.
- 9-518. Same - membership; terms; compensation.
- 9-519. Same - vacancy and removal.
- 9-520. Same - officers and staff.
- 9-521. Same - meetings.
- 9-522. Same - powers.
- 9-523. Same - procedures of hearing.
- 9-524. Penalties for violation.

**9-501. Purpose and intent; findings.** (1) It is the purpose of this chapter to regulate adult-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 govern the operation of adult-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 adult-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market.

(2) Many adult-oriented establishments exist where enclosed booths, stalls or cubicles and entertainment are provided to persons for a fee for the purpose of viewing adult entertainment; and

Studies performed in a substantial number of communities around the country indicate that such closed booths, stalls or cubicles have been used by patrons, clients or customers of such adult-oriented establishments for the purpose of engaging anonymously in sexual acts which cause blood, semen, urine or excrement to be deposited on the floors and/or walls of such enclosures; and

These studies also found that closed booth activities are likely to foster a pattern of conduct inimical to the public health; that enclosed booths encourage illegal and unsanitary sexual activity; and per se present a health risk; and

The health risks include the possible unchecked spread of the AIDS virus, hepatitis B virus and other sexually transmitted diseases because tracking of potentially infected parties is not possible given the anonymity of the sexual encounter; and

Adult-oriented establishments, also known as sexually oriented business, require special supervision from public safety and health agencies in order to protect and preserve the health, safety and welfare of the patrons of such businesses, as well as citizens of the state and of the city and county in which they are located; and

Extensive reviews have been conducted of land use studies concerning the secondary effects of adult-oriented establishments and sexually oriented businesses in other cities, including, but not limited to, Garden Grove, California (1991); Phoenix, Arizona (1986); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); City of Los Angeles, California (1977); Cleveland, Ohio (1977); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City (1986); Beaumont, Texas (1982); and Whittier, California (1978); and considered the experience of citizens and public officials in this state; and

From review of other cities' studies and evidence from this state, there is convincing documented evidence that adult-oriented establishments, because of their very nature, particularly when several of them are concentrated in any one area, have a deleterious effect on existing businesses around them, the surrounding residential areas, and the public at large, causing, among other adverse secondary effects, increased crime, downgrading of property values and spread of sexually transmitted and communicable diseases; and

It is recognized that adult-oriented establishments, due to their nature, have serious objectional operational characteristics, including location, hours of operation and physical layout of the establishment, thereby contributing to crime, disease, lower property values, urban blight and downgrading of the quality of life; and

It is recognized that adult-oriented establishments are frequently used for unlawful and/or dangerous sexual activities, including prostitution, indecent exposure and public or indiscriminate masturbation and sexual conduct; and

Increased crime and unhealthful conduct tend to accompany, concentrate round and be aggravated by adult oriented establishments, including, but not limited to, prostitution, pandering, unprotected or indiscriminate sexual conduct and masturbation, distribution of obscene materials and child pornography, possession and sale of controlled substances, violent crimes against persons, property crimes and exposing minors to harmful materials; and

Concern over sexually transmitted diseases including AIDS, is a legitimate health concern of the city which demands reasonable regulations of adult oriented establishments in order to protect the health and well being of the citizens; and

The experience of other states and cities demonstrate that reasonable restrictions on closing hours as contained in this act, are beneficial and necessary as a means of reducing and curtailing deleterious secondary effects of adult-oriented establishments, including crime, noise, traffic congestion, police response time and efforts, parking problems, sexual disease, sexual activity and discarded pornographic material on neighboring properties and whereas, the Supreme Court of the City of Henton v. Playtime Theaters, Inc., 475 U.S. 41, 50-52 (1986), hold that states and cities may rely on the experiences of other communities to prevent or reduce the attendant harmful secondary effects of adult oriented establishments and sexually oriented businesses, rather than await the impact of such effects, and whereas, several courts have upheld similar restrictions on hours of operations of such establishments and businesses, including: Mitchell v. Commission of Adult Entertainment, 803 F Supp 1112 (D.Def. 1992), affirmed at 10 F. 3d 123 (3<sup>rd</sup> Cir. 1993); Ellwest Stores v. Boner, 718 F. Supp. 1553, 1557 (M.D> Tenn 1989) (law is difficult to enforce and police in middle of night); Star Satellite, Inc. v. City of Biloxi, 779 F 2d 1074 (5<sup>th</sup> Cir. 1986); Broadway Books, Inc. v. Roberts, 642 F Supp. 486,491 (E.D. Tenn 1986) (law furthers legitimate law enforcement purpose), and that, therefore, such restrictions are lawful and proper to adopt in this state; and

Several courts have upheld restrictions on the configuration and viewability of the peep show motion picture viewing booths in adult-oriented establishments and sexually oriented businesses as a means of controlling and preventing the spread of sexual and communicable diseases, public unhealthy sexual activities, and unlawful sexual conduct in such booths, including: Libra Books, Inc. v. City of Milwaukee, 818 F. Supp. 263 (E.D. Wisc. 1993); City News & Novelty v. City of Waukesha, 487 N.W. 2d 316; (Wisc. App. 1993); Bamon Corp. v. City of Sayton, 923 F 2d 470 (5<sup>th</sup> Cir. 1991); Movie & Video World v. Board of County Commissioners, 723 F. Supp 695 S. D. Fla. 1989); Ellwest Stereo Theatre, Inc. v. Boner, 718 F. Supp 1553 (M.D. Tenn. 1989) (Nashville open booth law upheld to prevent prostitution, sexual conduct, diseases); Borg v. Health and Hospital Corp. of Madison County 837 F. 2d 797 (7<sup>th</sup> Cir. 1988);

IW/PBS, Inc. v. City of Dallas, 837 F.2d 1298 (5<sup>th</sup> Cir 1988); Postscript Enterprises v. City of Bridgeton, 699 F. Supp 1939 (E.D. Mo. 1988); Suburban Video, Inc. v. City of Delafield, 694 F. Supp 585 (E.D. Wisc. 1988); Doe v. City of Minneapolis, 693 F. Supp 774 (D. Minn. 1988); Wall distributors, Inc. v. City of Newport News, 782 F. 2d 1165 (4<sup>th</sup> Cir. 1986); Broadway Books, Inc. v. Roberts, 642 F. Supp., 486, 492 (E.D. Tenn. S.D. 1986) (Chattanooga open booth law upheld); Moody v. Board of County Commissioners, 697 P. 2d 1310 (Kan 1986); Ellwest Stereo Theaters, Inc. v. Wenner 681 F. 2d 1243 (9<sup>th</sup> Cir. 1982); EWAP, Inc. v. City of Los Angeles, 158 Cal. Rptr. 579 (Cal App. 1979), and that therefore such restrictions are lawful and proper to adopt in this city. (as added by Ord. #97-16, April 1997)

**9-502. Definitions.** As used in this chapter, unless the context otherwise requires:

(1) "Adult arcade." Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguishable or characterized by the depicting [and/or] describing of specified sexual activities or specified anatomical areas.

(2) "Adult book store." An establishment having as more than 50% of the face value of its stock in trade, books, magazines, motion pictures, periodicals and other materials which are distinguished or characterized by depicting, describing, or relating to "specified anatomical areas" as defined below.

(3) "Adult motion picture theater." Any public place, whether open or enclosed, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities," or "specified anatomical areas" (as defined below) for observation by patrons therein.

(4) "Adult-oriented establishment." Includes but is not limited to "adult bookstores," "adult motion picture theaters," or "adult cabarets" and further means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment of a member of the public, a patron or a member when such entertainment is held, conducted, or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio,

sensitivity studio, model studio, escort service, escort or any other term of like import.

(5) "Adult theater or adult cabaret." A theater, concert hall, auditorium, nightclub, club, bar, restaurant or similar commercial establishment which regularly features:

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

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

(6) "Board." The adult entertainment appeals board.

(7) "City." The Town of Greenbrier.

(8) "Employee." Any person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated as any employee, independent contractor, agent or otherwise. "Employee" does not include a person exclusively on the premises for repair of the premises or for delivery of goods to the premises.

(9) "Entertainer/performer." Any person who provides entertainment within an adult-oriented establishment, as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided an employee or as an independent contractor.

(10) "Escort." A person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort.

(11) "Escort service." A person as defined herein, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts.

(12) "Open office." An office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints.

(13) "Operator." Any person, partnership, or any other type of organization where two or more persons have a financial interest, joint venture or corporation operating, conducting or maintaining an adult-oriented establishment.

(14) Specified anatomical areas means:

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

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

(15) Specified sexual activities means:

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

(b) Acts of human masturbation, sexual intercourse or sodomy;

or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (as added by Ord. #97-16, April 1997)

**9-503. License to operate - general.** (1) Except as provided in subsection (5), from and after the effective date of this part, no adult-oriented establishment shall be operated or maintained by the city without first obtaining a license to operate issued by the city clerk.

(2) A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult-oriented business establishment must have a license for each location.

(3) No license or interest in a license may be transferred to any person, partnership or corporation. No person who is ineligible to obtain a license under the chapter shall be eligible to serve as the agent of a license under this section.

(4) No person shall be an entertainer/performer or employee on the premises of an adult-oriented business without first obtaining a valid work permit issued by the city clerk. A work permit, once issued, shall be valid for employment of the employee or entertainer/performer at any adult-oriented business within the city.

(5) It is unlawful for any entertainer/performer, employee or operator to knowingly work in or about or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(6) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within thirty (30) days of the effective date of this chapter. If a license is not applied for within such thirty day period, then such existing adult-oriented establishment shall cease to operate.

(7) No license shall be issued by the city clerk unless the applicant certifies, by proof satisfactory to the clerk, that the applicant has satisfied the rules, regulations, and provisions of the applicable zoning requirements in the city. Any zoning requirement shall be in addition to and an alternative to any requirement of this legislation.

(8) No adult-oriented establishment shall be operated or maintained in the city within fifteen hundred (1,500) feet, measured from property line to property line, of a school, educational facility, church or place of worship, day-care center, nursing home, library, park, cemetery, mortuary or hospital.

(9) The property line of such establishment shall not be located closer than 1,500 feet from the site of any public amusement or entertainment activity,

public gathering places, including, but not limited to, any area devoted to public recreation activity, city hall, city parks, arcades, motion picture theaters, bowling alleys, golf courses, miniature golf, playgrounds, ice-skating or roller-skating rinks, or arenas, community centers and similar amusements offered to the general public.

(10) No adult-oriented establishment shall be operated or maintained in the city within two hundred (200) feet, measured from property line to property line, of a boundary of a residential zone.

(11) No adult-oriented business establishment shall be operated or maintained in the city within fifteen hundred (1,500) feet, measured from property line to property line, of another adult-oriented business establishment. (as added by Ord. #97-16, April 1997)

**9-504. Same application.** (1) Any person, partnership, or corporation, or any other type of organization where two or more persons have a financial interest, desiring to secure a license shall make application to the city clerk. The city clerk shall establish procedures for the issuance of a license.

(2) The application for a license shall be upon a form provided by the clerk. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of the total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but 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 (6) inches. In addition, the diagram of any adult-oriented business which exhibits, on the premises, in a viewing booth of less than one hundred fifty (150) square feet of floor space, a film, videocassette, or other video reproduction, or which provides private or semiprivate booths or cubicles for viewing live sex shows which depict specified sexual activities or specified anatomical areas must comply with the requirements of § 9-513 of this chapter.

(3) An applicant for a license, including any partner or limited partner of the partnership applicant, and any officer or director of the corporation rate applicant who is also interested directly in the actual operation of the business shall furnish the following information under oath:

- (a) Name and address, including any aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) Whether such applicant has been convicted of or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children;

(d) Whether such applicant has previously violated this chapter within the five (5) years immediately preceding the date of the application;

(e) The address of the adult-oriented establishment to be operated by the applicant.

(4) A license fee of three hundred dollars (\$300.00) shall be submitted with the application for a license. (as added by Ord. #97-16, April 1997)

**9-505. Employees and entertainers/performers permits; application.**

(1) Any person desiring to secure a permit shall make application to the city clerk. The city clerk shall establish procedures and criteria for the issuance of a permit. The application shall be filed in triplicate with and dated by the city clerk.

(2) The application for a permit shall be upon a form provided by the city clerk. An application for a permit shall furnish the following information under oath;

(a) Name and address, including any aliases.

(b) Written proof that the individual is at least eighteen (18) years of age;

(c) Whether such applicant has been convicted of or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children;

(d) Whether such applicant has previously violated this chapter within the five (5) years immediately preceding the date of the application;

(3) A permit fee of sixty dollars (\$60.00) shall be submitted for a permit. (as added by Ord. #97-16, April 1997)

**9-506. Investigations of applicants' qualifications.** (1) No license or permit shall be issued unless the city police department has investigated all applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the chief of police no later than twenty (20) days after the date of the application. Within ten (10) days, or a reasonable time thereafter, of receiving the results of the investigation conducted by the city police department, the city clerk shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the city clerk shall advise the applicant in writing whether the application is granted or denied.

(2) Whenever an application is denied or held for further investigation, the city clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board, at which time the applicant may present evidence bearing upon the question.

(3) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such license and shall be ground for denial thereof by the chief of police. (as added by Ord. #97-16, April 1997)

**9-507. Qualifications for license to operate, permit.** (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

(i) The applicant shall be at least eighteen (18) years of age;

(ii) The applicant shall not have been convicted of, or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving the sexual exploitation of children; and

(iii) The applicant shall not have previously violated this chapter within the five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers and directors of the corporation shall be at least eighteen (18) years of age;

(ii) No officer or director shall have been convicted of, or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children; and

(iii) No officer or director shall have previously violated this chapter within the five (5) years immediately preceding the date of the application.

(c) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization who also have an interest in the actual operation of the business shall be at least eighteen (18) years of age;

(ii) No such person shall have been convicted of, or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children; and

(iii) No such person shall have previously violated this chapter within the five (5) years immediately preceding the date of the application.

(2) To receive a permit, the applicant must meet the following qualifications:

(a) The applicant shall be at least eighteen (18) years of age;

(b) The applicant shall not have been convicted of, or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving the sexual exploitation of children; and

(c) The applicant shall not have previously violated this chapter within five (5) years immediately preceding the date of the application. (as added by Ord. #97-16, April 1997)

**9-508. Inspections; notice of results.** In order to effectuate the provisions of this chapter, the chief of police or his/her authorized representative, as well as the city building and codes department, is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment and inspect the license of the operators and the premises of an establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue licenses provided by this part. (as added by Ord. #97-16, April 1997)

**9-509. Injunctions.** The chief of police has the power and authority to enter into any court of the State of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this chapter, and is further empowered to enter into any such court to enforce the provisions of this chapter in order to ensure compliance with such provisions. (as added by Ord. #97-16, April 1997)

**9-510. Revocation, suspension or annulment of licenses.** (1) The chief of police shall revoke or suspend a license for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application.

(b) The operator or entertainer/performer, or any employee of the operator, violates any provision of this part or any rule or regulation adopted by the chief of police pursuant to this chapter; provided, that in the case of a first offense by an operator where the conduct was solely that of an employee or entertainer/performer, the penalty shall not exceed a license suspension of thirty (30) days if the chief of police shall find that the operator had no actual or constructive knowledge or such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge

(c) The operator, entertainer/performer, or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this part is not paid.

(e) An operator employs an entertainer/performer, employee, or independent contractor who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs as an entertainer/performer without a permit.

(f) Any intoxicating liquor or alcoholic beverage is served or consumed on the premises of the adult-oriented establishment.

(g) There exists on the premises a violation of law which threatens the public health or safety; provided, however, that prior to a suspension of any license on this ground, the operator will be given written notice of the condition giving rise to the threat to health or safety and will be given ten (10) days to rectify the situation before the notice of suspension is sent.

(2) The chief of police, before revoking or suspending any license or permit, shall give the holder thereof at least ten (10) days' written notice of the charges against the holder and the opportunity for a public hearing before the board, at which time the holder may present evidence bearing upon the question. In such cases, the charges shall be specified and in writing. If the licensee or permittee requests a hearing in writing within ten (10) days, no action shall be taken to revoke or suspend the license or permit until the hearing has been held in accordance with board procedure and the board has rendered a decision.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator.

(4) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation. (as added by Ord. #97-16, April 1997)

**9-511. Termination and renewal of licenses and permits; applications; fees.** (1) Every license and permit issued under this part will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator, employee or entertainer/performer desiring to renew a license or permit shall make application to the city clerk. The application for renewal shall be filed in triplicate with and dated by the city clerk. The application for renewal shall contain such information and data, given under oath or affirmation, as may be required by the chief of police, but not less than the information contained in the original application.

(2) **Fees.** (a) A license renewal fee of fifty dollars (\$50.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of twenty dollars (\$20.00) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires.

(b) A permit renewal fee of twenty dollars (\$20.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of ten dollars (\$10.00) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires.

(3) Whenever a renewal application is denied, the city clerk shall send notice to the applicant by certified mail informing him in writing of the specific reasons for such action. The notice shall inform the applicant of his right to request a hearing before the board within ten (10) days of receipt of the notice of denial. If the applicant requests a hearing in writing within ten (10) days, the applicant's current permit or license shall remain in effect until the board has rendered a decision on the applicant's appeal.

(4) If the city police department is aware of any information bearing on the operator's or employee's or entertainer/performer's qualifications, the information shall be filed in writing with the chief of police not later than ten (10) days after the application renewal. (as added by Ord. #97-16, April 1997)

**9-512. Prohibited hours of operation; hours open for inspection.**

(1) No adult-oriented establishment shall be open between the hours of 12:00 a.m. and 8:00 a.m. on weekdays or between the hours of 12:00 a.m. and 12:00 p.m. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the city police department or such other persons as the chief of police may designate. (as added by Ord. #97-16, April 1997)

**9-513. Duties and responsibilities of operators, entertainers/performers/ employees.** (1) The operator shall maintain a register of all employees and entertainers/performers, showing the name, the aliases used by the individual, home address, birth date, telephone number, date

of employment and termination, and duties of each employee. The above information on each employee/entertainer/performer shall be maintained in the register on the premises for a period of three (3) years following termination of working at the establishment.

(2) The operator shall make the employee register available immediately for inspection by the chief of police or city police department upon demand of a member of the chief of police or city police department at all reasonable times.

(3) Every act or omission by an employee/entertainer/performer constituting a violation of the provisions of this part shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's or entertainer/performer's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and entertainers/performers while on the licensed premises and any act or omission of any employee or entertainer/performer constituting a violation of the provisions of this part shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) No operator, employee or entertainer/performer of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishments or to allow any minor to view adult entertainment as herein defined. (as added by Ord. #97-16, April 1997)

**9-514. Prohibited activities.** (1) No operator, entertainer/performer or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform, or allow patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer/performer or employee of an adult-oriented establishment shall encourage or permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer/performer or employee of an adult-oriented establishment shall be unclothed or in such attire, costume or clothing so as to commit the offense of public nudity. (as added by Ord. #97-16, April 1997)

**9-515. Exhibition of films, videos or live sex shows in booths, cubicles, rooms or stalls.** A person who operates or causes to be operated an adult-oriented business which exhibits on the premises, in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette,

or other video reproduction, or which provides private or semiprivate booths or cubicles for viewing live sex shows, which depict specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) Upon application for an adult-oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's 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 designate scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The chief of police 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.

(2) It is the duty of the owners and operators of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises. Further, it is the duty of the owners and operators of the premises and the employees who are present to ensure that no more than one person occupies a booth, cubicle, viewing room or stall at any time, and that all entrances to booths or other viewing areas (and to the aisles, walkways and hallways leading to booths or other viewing areas) are maintained free of any obstruction such as a door, curtain, panel, board, plat, ribbon, cord, rope, chain or other device.

(3) 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 of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(4) It shall be the duty of the owners and operators, and it shall also be the duty of all employees present in the premises, to ensure that the line of sight and view area specified in subsection (3) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises, and to ensure 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.

(5) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot candle as measured at the floor level.

(6) It shall be the duty of the owners and operators and it shall be the duty of all employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(7) No operator, owner or employee shall allow openings of any kind to exist between viewing rooms or booths, and no person shall make or attempt to make an opening of any kind between booths or rooms. The operator or owner shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(8) The owner or operator shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting, and shall cause all wall surfaces and seating surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable materials. (as added by Ord. #97-16, April 1997)

**9-516. Display of license.** A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

THIS ADULT-ORIENTED BUSINESS IS REGULATED BY THE OFFICIAL CODE OF THE CITY OF GREENBRIER, § 9-701 ET SEQ. EMPLOYEES AND PERFORMERS ARE NOT PERMITTED TO HAVE SEXUAL CONTACT WITH PERSONS ON THE PREMISES. (as added by Ord. #97-16, April 1997)

**9-517. Adult entertainment appeals board - created.** There is created for the city the adult entertainment appeals board, sometimes referred to in this chapter as the "board." (as added by Ord. #97-16, April 1997)

**9-518. Same-membership; terms; compensation.** The board shall consist of seven (7) members. Each ward representative shall be appointed to that membership by the alderman for that ward. The mayor shall appoint a member at large who shall be deemed the chairperson. Each term of office shall run concurrent with the elected officials term of office. Members of the board shall serve without compensation. (as added by Ord. #97-16, April 1997)

**9-519. Same-vacancy and removal.** Any vacancy due to any cause shall be filled for the unexpired term in the same manner as the original appointment. Any member of the board may be removed from office for cause by a three-fourths (3/4) vote of the city council after a hearing by the city council. (as added by Ord. #97-16, April 1997)

**9-520. Same-officers and staff.** The board shall elect from its membership a vice chairman, who shall be selected for one-year terms. The chief of police or his duly authorized representative shall serve as the secretary of the board and shall serve as the custodian of its records and minutes. (as added by Ord. #97-16, April 1997)

**9-521. Same-meetings.** Regular sessions of the board shall be held once each month on such date and at such time and place as established by the board, unless no business is scheduled to come before the board, in which case no meeting need be held. The presence of four (4) members shall constitute a quorum, and the concurring vote of at least four (4) members shall be necessary to uphold or overturn a decision of the chief of police. (as added by Ord. #97-16, April 1997)

**9-522. Same-powers.** The board is hereby vested with the power to assist in the regulation of adult-oriented business by:

(1) Hearing and deciding appeals from any order, requirement, decision or determination made by the chief of police in carrying out the enforcement of this chapter, whereby it is alleged in writing that the chief of police is in error.

(2) Promulgating such rules and regulations as are necessary for the conduct of its meetings and to carry out its duties, and filing such rules with the city clerk.

(3) Compelling the attendance of witness, the production of books, papers, records, or other documents relevant or material to any matter in question before the board. (as added by Ord. #97-16, April 1997)

**9-523. Same-procedures of hearings.** (1) Upon receiving a written request for a hearing, the board shall send the party requesting the hearing a notice stating the time and place of the hearing and the right to be represented by counsel. All hearings shall be open to the public.

(2) At the hearing of the case, the party requesting the hearing shall appear on his own behalf or be represented by counsel. All witness shall be sworn. The chairman shall allow the appealing party to present witnesses on his behalf and to cross examine all witness testifying against him.

(3) All decisions of the board shall be in writing, setting forth the findings of the board, and shall be signed. Any decision of the board to deny, suspend, or revoke a license or permit shall not take effect earlier than ten (10) days after the date the decision was rendered in order that the party receiving the decision may have adequate time to seek judicial review.

(4) Minutes shall be kept of all proceedings before the board in permanent form, and a record shall be kept of the actions of the board with respect to all hearings.

(5) A record (which may consist of a tape or similar electronic recording) shall be made of all oral proceedings. Such record or any part thereof shall be transcribed on request of any part at such party's expense, or may be transcribed by the board at its expense. If the board elects to transcribe the proceedings, any party shall be provided copies of the transcript upon payment to the agency of a reasonable compensatory fee. Should a party desire a court reporter to be present at the hearing, he or his representative must arrange for the court reporter's presence.

(6) Any party aggrieved by an action of the board may appeal the board's decision to a court of competent jurisdiction. (as added by Ord. #97-16, April 1997)

**9-524. Penalties for violation.** (1) Any person, partnership or corporation, or any other type of organization where two or more persons have a financial interest, who is found to have violated this chapter shall be fined a definite sum not exceeding the maximum fine for the violation of any Greenbrier municipal ordinance; such violation shall be grounds for the suspension or revocation of any license.

(2) Each violation of this part shall be considered a separate offense, and any violation continuing more than twenty-four (24) hours shall be considered a separate offense for each day of violation. (as added by Ord. #97-16, April 1997)

## CHAPTER 6

### YARD SALES

#### SECTION

- 9-601. Definitions.
- 9-602. Property permitted to be sold.
- 9-603. Permit required.
- 9-604. Permit procedure.
- 9-605. Permit conditions.
- 9-606. Hours of operation.
- 9-607. Exceptions.
- 9-608. Display of sale property.
- 9-609. Display of permit.
- 9-610. Advertising.
- 9-611. Persons exempted from chapter.
- 9-612. Violations and penalty.

**9-601. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and other derivations shall have the meaning given herein.

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

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (as added by Ord. #01-22, Dec. 2001)

**9-602. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #01-22, Dec. 2001)

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<sup>1</sup>Municipal code reference:

Zoning ordinance: title 14, chapter 2.

**9-603. Permit required.** No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the city recorder. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location. (as added by Ord. #01-22, Dec. 2001)

**9-604. Permit procedure.** (1) Application. The applicant or applicants for a garage sale permit shall file a written application with the city recorder at least three (3) days in advance of the proposed sale setting forth the following information:

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

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

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

(2) Permit fee. An administrative processing fee of five dollars (\$5.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit. (as added by Ord. #01-22, Dec. 2001)

**9-605. Permit conditions.** The permit shall set forth and restrict the time and location of such garage sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year. In the event that an unusual amount of traffic congestion is generated, access by emergency vehicles is restricted, or any kind of special hazard is created, the police department may put temporary controls in place or may close the sale if conditions warrant. (as added by Ord. #01-22, Dec. 2001)

**9-606. Hours of operation.** Garage sales shall be limited in time to no more than 7:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (as added by Ord. #01-22, Dec. 2001)

**9-607. Exceptions.** (1) If sale not held because of inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the city recorder shall issue another permit to the applicant for a garage sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city recorder. (as added by Ord. #01-22, Dec. 2001)

**9-608. Display of sale property.** Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (as added by Ord. #01-22, Dec. 2001)

**9-609. Display of permit.** Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official. (as added by Ord. #01-22, Dec. 2001)

**9-610. Advertising.** (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

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

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

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

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (as added by Ord. #01-22, Dec. 2001)

**9-611. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Greenbrier, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (as added by Ord. #01-22, Dec. 2001)

**9-612. Violations and penalty.** Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to fifty dollars (\$50) for each offense. (as added by Ord. #01-22, Dec. 2001)

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

1. IN GENERAL.
2. DOGS.
3. DOGS AND CATS RUNNING AT LARGE.
4. PIT BULLS.
5. VICIOUS DOGS.
6. DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS.
7. GUARD DOGS.

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

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- 10-108. Inspections of premises.
- 10-109. Animal control fees.
- 10-110. Keeping of chickens.
- 10-111. Animal waste.

**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 or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1970 Code, § 3-101)

**10-102. Keeping near a residence or business restricted.** No person shall keep any animal or fowl, with the exception of chickens, 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 governing body. The governing body shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1970 Code, § 3-102, as replaced by Ord. #12-02, May 2012)

**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. (1970 Code, § 3-103)

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

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1970 Code, § 3-104)

**10-105. Keeping in such manner as to become a nuisance prohibited.** No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1970 Code, § 3-105)

**10-106. Cruel treatment prohibited.** It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1970 Code, § 3-106)

**10-107. 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 the City of Greenbrier Animal Shelter.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl reasonable fee, as determined by the governing body, to cover the costs of impoundment and maintenance. (1970 Code, § 3-107, modified, as amended by Ord. #12-02, May 2012)

**10-108. Inspections of premises.** For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or such other persons as may be authorized by the governing body, 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. (1970 Code, § 3-108)

**10-109. Animal control fees.** The animal control fee schedule is as follows:

|                      |                                                 |
|----------------------|-------------------------------------------------|
| Capture and delivery | First offense - no charge                       |
|                      | Second offense - \$50.00 fee                    |
|                      | Third offense - \$50.00 fee and cited to court. |

|                                                                                                                                |                                                |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Shelter boarding                                                                                                               | \$20.00 per day (not including day of capture) |
| Litter (when necessary)                                                                                                        | \$ 3.00 per animal/per day                     |
| Adoption fee                                                                                                                   | \$40.00 per dog<br>\$25.00 per cat             |
| Spaying/neuter deposit<br>(as added by Ord. #07-19, Dec. 2007, and replaced by Ord. # 16-08, Dec. 2016<br><i>Ch7_12-2-19</i> ) | \$25.00 (refunded upon spay/neuter of animal)  |

**10-110. Keeping of chickens.** No person shall keep chickens within the city limits in such a manner that a nuisance is created.

(1) "Domesticated hens" means female chickens that may, where permitted, be kept and maintained for the non-commercial production of eggs, education, companionship, or recreation. Other types of fowl and poultry shall not be considered domesticated hens.

(2) Only hens allowed; roosters are expressly prohibited. There is no restriction on domestic hen breeds.

(3) Food storage and removal. All stored food for the domesticated hens must be kept either indoors or in a weather-resistant container designed to prevent access by animals. Uneaten food shall be removed daily.

(4) Enclosure. (a) All domesticated hens shall be kept outside of a habitable structure in a predator-proof enclosure, a portion of which must be a covered henhouse, and a portion of which must be a fenced area.

(b) A minimum of two (2) square feet per hen shall be provided for henhouses and six (6) square feet per bird for fenced enclosures.

(c) Fenced enclosures and henhouses must be properly ventilated, clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.

(5) Location. All domesticated hens shall be kept in the rear yards of a residential property subject to the setback standards contained in this subsection. No domesticated hens shall be kept in the front yard. Neither the hens nor the covered henhouse shall be visible from any public right-of-way. Rather, the hens and henhouses shall be entirely screened from view of the public right-of-way using opaque fencing and/or landscaping.

(6) Setbacks. An enclosure shall be located fifty feet (50') away from any residential structure (other than the permit holder's residence) located in a residential zone district and ten feet (10') from any property line.

(7) Sanitation, nuisance, and humane treatment. (a) Provision must be made for the storage and removal of chicken manure. All manure for composting or fertilizing shall be contained in a well-aerated garden compost pile. All other manure not used for composing or fertilizing shall

be removed. In addition, the henhouse and surrounding area must be kept free from trash and accumulated droppings.

(b) Disposal of waste must be in a sanitary landfill. All disposals must be in compliance with the state mandate stormwater regulation.

(c) No perceptible odor from the hens or the hen enclosure shall be present at any property line.

(d) No slaughtering of domesticated hens may occur on the property.

(e) No breeding of chickens shall occur on the property.

(f) No domesticated hens shall be used or trained for the purpose of fighting for amusement, sport, or financial gain.

(8) Regulations. These regulations do not supersede or override subdivision restrictions already in place for a particular area. It is the responsibility of the homeowner to research the restrictions prior to obtaining any domesticated hens.

Any owner not following the above mentioned rules will be subjected to fees as outlined in § 10-109 "Animal control fees" in this chapter. (as added by Ord. #12-02, May 2012)

**10-111. Animal waste.** The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas, public parks, or private property. Violators will be subject to fifty dollar (\$50.00) fine for each violation. (as added by Ord. #14-13, Nov. 2014)

## CHAPTER 2

### DOGS

#### SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Keeping in such a manner as to become a nuisance prohibited.
- 10-208. Seizure and disposition of dogs.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1970 Code, § 3-201)

**10-202. Dogs to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1970 Code, § 3-202)

**10-203. Running at large prohibited.**<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1970 Code, § 3-203, modified)

**10-204. Vicious dogs to be securely restrained.** (1) This section shall be construed as a strict liability section, and knowledge on the part of the owner that the owner's animal is in violation of the section is specifically not an element of the offense in the section.

(2) It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1970 Code, § 3-204, as amended by Ord. #02-11, Oct. 2002)

**10-205. Noisy dogs prohibited.** No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1970 Code, § 3-205)

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<sup>1</sup>State law reference

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

**10-206. Confinement of dogs suspected of being rabid.** If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he reasonably deems necessary to determine if such dog is rabid. (1970 Code, § 3-206)

**10-207. Keeping in such a manner as to become a nuisance prohibited.** It shall be unlawful for any person to own, keep, or harbor any dog in such a manner as to become a nuisance either because of noise, order, contagious disease, or other reason. (1970 Code, § 3-207)

**10-208. Seizure and disposition of dogs.** Any dog found running at large or in violation of any section of this chapter, may be seized by the health officer or any police officer and placed in a pound provided or designated by the governing body. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, to be fixed by the governing body, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.<sup>1</sup> (1970 Code, § 3-208)

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<sup>1</sup>State law reference

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

**CHAPTER 3****DOGS AND CATS RUNNING AT LARGE****SECTION**

10-301. Prohibited.

10-302. Enforcement procedures.

**10-301. Prohibited.** It shall be unlawful for any person to allow a dog or cat belonging to him or under his control or that may be habitually found on premises occupied by him, or immediately under his control, to go upon the premises of another, or upon a highway or upon a public road or street. (Ord. #89-1, April 1989)

**10-302. Enforcement procedures.** Any dog or cat allowed to run at large upon the premises of another or upon a highway or upon a public road or street shall be picked up by the animal control officer or any employee so authorized by the municipal governing body and such dog or cat shall be confined. A fee of fifty dollars (\$50.00) shall be charged to recover the animal. (Ord. #89-1, April 1989, as amended by Ord. #14-10, Aug. 2014)

## CHAPTER 4

### PIT BULLS

#### SECTION

10-401. Definitions.

10-402. Restrictions.

10-403. Standard and requirements.

10-404. Sale or trade of ownership prohibited.

10-405. Animals born of registered dogs.

10-406. Rebuttal presumptions.

10-407. Violations and penalties.

**10-401. Definitions.** The word pit bull used in this chapter shall have the following meanings:

- (1) The bull terrier breed of dog; and
- (2) Staffordshire Bull Terrier of dog; and
- (3) The American Pit Bull Terrier of dog; and
- (4) The American Staffordshire of dog, all of the above breeds to be identified and described by the American Kennel Club and United Kennel Club; and
- (5) Dogs of mixed breed or of other breeds than listed above which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; and
- (6) Any dogs which have the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier and any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers; or a combination of any of these breeds. (as added by Ord. #01-12, May 2001)

**10-402. Restrictions.** It shall be unlawful to keep, harbour, own in any way poses a pit bull dog within the corporate limits of Greenbrier, Tennessee, except as provided in this chapter. (as added by Ord. #01-12, May 2001)

**10-403. Standard and requirements.** The following standards and requirements apply to pit bulls located within the corporate limits.

(1) **Registration.** Each owner, keeper, harborer, or possessor of a pit bull dog shall register such dog with the chief of police or his designee.

(2) **Leash and muzzle.** No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed no longer than four (4) feet in length person shall permit a bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings or structures. In addition, a

muzzling device sufficient to prevent such dog from biting persons or other animals shall muzzle all pit bulls on a leash outside of the animal's kennel.

(3) Confinement. All pit bulls shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure and the structure must have a secure floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs shall comply with all zoning and building ordinances and regulates of the City of Greenbrier and shall be adequately lighted and ventilated and must be kept in a clean and satisfactory condition.

(4) Confinement indoors. No pit bull dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit said building on its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows are the only obstacles preventing the dog from exiting the structure.

(5) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "BEWARE OF DOG." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(6) Insurance. All owners, keepers, harborers, or possessors of pit bull dogs shall provide proof to the city recorder of public liability insurance in a single incident amount of fifty thousand dollars (\$50,000.00) for bodily injury to or death of any person or persons or for damages to property owned by any persons which may result from owning, possessing, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the city recorder.

(7) Identification photographs. All owners, keepers, possessors, or harborers of pit bull dogs must provide to the city recorder two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(8) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs shall within ten (10) days of the incident report the following information in writing to the city recorder as required hereinafter:

- (a) The removal from the city or death of a pit bull dog or
- (b) The birth of offspring of a pit bull dog; or
- (c) The new address of a pit bull dog owner should the move within the corporate limits of the city. (as added by Ord. #01-12, May 2001, and amended by Ord. #07-23, Dec. 2007, and Ord. #08-08, June 2008)

**10-404. Sale or trade of ownership prohibited.** No person shall sell, barter, or in any way transfer possession of a pit bull dog to any person within the City of Greenbrier unless the recipient registers the pit bull dog with the city recorder at the time of the transfer. The owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City of Greenbrier. (as added by Ord. #01-12, May 2001)

**10-405. Animals born of registered dogs.** All offspring born of pit bull dogs born within the City of Greenbrier shall be registered within six (6) weeks of the birth of such animal. (as added by Ord. #01-12, May 2001)

**10-406. Rebuttal presumptions.** It shall be unlawful for the owner, keeper, harbinger or possessor of a pit bull dog within the City of Greenbrier to fail to comply with the provisions of this chapter. Any dog found to be subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City of Greenbrier. (as added by Ord. #01-12, May 2001)

**10-407. Violations and penalties.** Any persons violating or permitting the violation of any provisions of this chapter shall, upon conviction, be subject to the fine prescribed in the general penalty clause of the Greenbrier Municipal Code. Each day that such violation shall continue constitutes a separate offense. Further, the city court may order the dog removed from the City of Greenbrier. Should the defendant refuse to remove the dog from the City of Greenbrier, the city judge shall find the defendant in contempt and order the immediate confiscation and impoundment of the animal. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including sums for shelter, food, handling, veterinary care and expert testimony, which are necessitated by the person's failure to abide by the provisions of this code. (as added by Ord. #01-12, May 2001)

## CHAPTER 5

### VICIOUS DOGS

#### SECTION

10-501. Definitions.

10-502. Vicious dogs prohibited.

10-503. Impoundment; proceedings against owner.

**10-501. Definitions.** For the purpose of this chapter, the following terms shall have the following meanings:

(1) "Confined" shall mean securely confined indoors within an automobile or other vehicle, or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two (2) feet.

(2) "Vicious dog" shall mean any dog which attacks or bites a person or a domestic animal on any public or private property without provocation or any dog owned or harbored primarily or in part for the purpose of fighting. (as added by Ord. #01-12, May 2001)

**10-502. Vicious dogs prohibited.** It shall be unlawful for any person to keep or harbor a vicious dog within the City of Greenbrier unless the vicious dog is confined. (as added by Ord. #01-12, May 2001)

**10-503. Impoundment; proceedings against owner.**

(1) Impoundment. Any vicious dog may be taken into custody by the appropriate authorities of the Greenbrier Police Department and impounded. The fees imposed shall be imposed upon and paid by the owner of such vicious dog so impounded to cover the costs of the City of Greenbrier in impounding the dog.

(2) Court proceedings against the owner. If any vicious dog/cat is impounded, the appropriate authorities of the Greenbrier Police Department may institute proceedings in the Greenbrier City Court against the owner charging the owner with violation of this division. Nothing in this section shall be constructed as preventing appropriate authorities of the Greenbrier government or a complaining citizen from instituting a proceeding in the Greenbrier City Court against the owner charging the owner with violation of this division. Nothing in this section shall be constructed as preventing appropriate authorities of the Greenbrier government or a complaining citizen from instituting a proceeding in the Greenbrier City Court for violation of this division where there has been no impoundment.

(3) Court findings. If a complaint has been filed in the Greenbrier City Court against the owner of a dog for violation of this division, the dog shall not be released from impoundment or disposed of except on order of the court, payment of all charges and costs under this chapter, including penalties for violating this chapter. The court may, upon making a finding that the dog is a vicious dog pursuant to this chapter, order the dog to be destroyed in a humane manner by the department of health. (as added by Ord. #01-12, May 2001)

## CHAPTER 6

### DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS

#### SECTION

- 10-601. Exemption from chapter.
- 10-602. License fees.
- 10-603. Definitions.
- 10-604. Findings.
- 10-605. Citation for designation of dangerous dog or potentially dangerous dog; hearing; designation of dangerous dog or potentially dangerous dog; imposition of conditions; no change of ownership pending hearing.
- 10-606. Notice of designation.
- 10-607. Impoundment and abatement of potentially dangerous dog or dangerous dog.
- 10-608. Possession unlawful without proper restraint; failure to comply with mandatory restrictions.
- 10-609. Mandatory restrictions on dangerous dogs.
- 10-610. Removal of designation of potentially dangerous dog.
- 10-611. Change of ownership, custody or location of dog; death of dog.

**10-601. Exemption from chapter.** This chapter does not apply to certified and trained dogs owned and utilized by any law enforcement agency during work-related activities. (as added by Ord. #02-11, Oct. 2002)

**10-602. License fees.** The annual license fee for a potentially dangerous dog shall be fifty dollars (\$50.00) each; provided, that a surcharge of an additional twenty-five dollars (\$25.00) shall be levied against all such dogs which are not spayed or neutered. The annual license fee for a dangerous dog shall be one hundred fifty dollars (\$150.00) each. The license for potentially dangerous dogs must be renewed each year. The license fees set forth in the subsection (b) apply to all potentially dangerous dogs and dangerous dogs regardless of ownership. (as added by Ord. #02-11, Oct. 2002)

**10-603. Definitions.** For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

- (1) "Animal" means every living creature except human beings.
- (2) "Abandon" means forsake, desert or give up an animal previously under the custody or possession of a person without having secured another owner or custodian or by failing to make reasonable arrangements for adequate care for a period of twenty four (24) or more consecutive hours.
- (3) "Animal services" or "ASD" means Animal Services Division of the Greenbrier Police Department.

(4) "Animal shelter" means my premises designated by the city for the purpose of impounding and caring for all animals found at large or otherwise subject to impoundment in accordance with the provisions of this chapter.

(5) "At large" means off the property of its owner and not under the restraint of a competent person.

(6) "Attack" means attack by an animal off its owner's property in a vicious, terrorizing or threatening manner or in an apparent attitude of aggression; "attack" does not include any actions by an animal in defense of itself or its owner or keeper against aggression by a person or an animal.

(7) "Dangerous dog" means any dog that has been designated as such by the City Court of the City of Greenbrier.

(8) "Dog" means any member of the animal species *canis familiaris* or any animal which is a crossbreed on any animal that is a member of the *canis familiaris* species, including, but not limited to, wolf/dog crossbreeds and wolf hybrids.

(9) "Domestic animal" means any animal that may be legally possessed by a person and is commonly kept as a pet in or around a residence, outbuilding or business.

(10) "Guard dog" means any member of the dog family (*canidae*) which has been trained or represented as a dog trained to protect commercial property or placed on a commercial property for the purpose of protecting such property or persons on such property.

(11) "Guard dog owner" means any person, firm or corporation, which employs a guard dog to protect commercial property from unauthorized intrusion; for purposes of this definition, "owner" includes both legal owner and any person, firm or corporation who, through arrangement or contract, has secured the use of a guard dog to protect commercial property from unauthorized intrusion.

(12) "Guard dog purveyor" means any person, firm or corporation supplying guard dogs to members of the public.

(13) "Guard dog trainer" means any person, either as an individual or as an employee of a guard dog purveyor, whose prime function is the training of dogs as guard dogs.

(14) "Impoundment" means the placement of an animal in the custody of the animal services division or an animal shelter.

(15) "Minor injury" means an injury in which the victim suffers pain as a result of an attack by an animal but which does not produce any broken bone, bleeding or death on the part of the victim.

(16) "Mischievous animal" means any animal that causes a public nuisance.

(17) "Neglect" means any of the following:

(a) Failing to provide an animal with adequate food or drinkable water at suitable intervals sufficient to maintain the animal's health and wellbeing;

(b) Failing to provide adequate medical attention for any sick, diseased, or injured animal in order to prevent physical pain, suffering, disability or death to the animal.

(c) Keeping any animal under conditions which increase the probability of the transmission of disease; or

(d) Failing to provide an adequate shelter for an animal wherein the animal can be protected from extremes of weather (heat, cold, rain, sun, etc.), physical suffering, or impairment of health, and which is large enough to allow the animal to make normal body movements.

(18) "Owner" means any person, corporation, organization, group of persons or association that

(a) Has a property right in an animal,

(b) Keeps or harbors an animal,

(c) Has an animal in his or her care or acts as a custodian of an animal for ten (10) or more consecutive days when the true owner of the animal is unknown to such person, or

(d) By agreement with or with permission of the true owner of the animal, has an animal in his or her care or acts as a caretaker or custodian of an animal; "owner" does not include the city, animal shelter or any non-profit animal welfare agency that operates an animal sheltering facility.

(19) "Potentially dangerous dog" means any dog that has been designated as such by the City Court of the City of Greenbrier.

(20) "Proof of ownership" means documentation in support of a property right in an animal that includes, but is not limited to, veterinary records, rabies vaccination certificates, license, photographs, bills of sale, breed registries, written transfers of ownership, and verbal or written third-party verifications.

(21) "Proper enclosure" means a place in which a dog is securely confined indoors or a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of twelve and designed to prevent the dog from escaping. Such enclosure shall have secure sides and a secure top to prevent the dog from escaping and shall also provide protection for the dog from the elements. The enclosure shall be of suitable size for the dog.

(22) "Properly restrained" mean

(a) Controlled by a competent person by means of a chain, leash, or other like device not to exceed six feet (6') in length,

(b) Secured within or upon a vehicle being driven or parked, or

(c) Kept within a proper enclosure.

Properly restrained in or upon a vehicle does not include restraint or confinement that would allow an animal to fall from or otherwise escape the confines of a vehicle or that would allow an animal to have access to persons outside the vehicle.

(23) "Provoke" means to goad, inflame, instigate or stimulate an aggressive or defensive response on the part of an animal, but does not include

any actions on the part of an individual that pertains to reasonable efforts of self-defense against an animal.

(24) "Public nuisance" means any animal or group of animals that, by way of example and not of limitation, habitually:

- (a) Damage, soil or defile community or neighborhood private property or public property;
- (b) Interfere with the ordinary use and enjoyment of a person's property;
- (c) Turn over garbage containers or damage flower or vegetable gardens;
- (d) Cause unsanitary or offensive conditions; or
- (e) Impede the safety of pedestrians, bicyclist, or motorists.

(25) "Severe injury" means any injury in which the victim suffers pain as a result of an attack by an animal and which includes any broken bone, bleeding or death on the part of the victim.

(26) "Stray" means any animal

- (a) Which is at large,
- (b) Which appears to be lost, unwanted or abandoned, or
- (c) Whose owner is unknown or not readily available.

(27) "Torture" or "torment" means every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. (as added by Ord. #02-11, Oct. 2002)

**10-604. Findings.** (1) Dangerous dogs have become a serious and widespread threat to the safety and welfare of citizens and domestic animals of the city. In recent years, dogs have assaulted without provocation and seriously injured numerous individuals, particularly children, and have killed other animals. Many of these attacks have occurred in public places.

(2) The number and severity of these attacks are often attributable to the failure of owners to register, confine and properly control dangerous and potentially dangerous dogs.

(3) The necessity for the regulation and control of dangerous and potentially dangerous dogs is a citywide problem, requiring regulation, and existing laws are inadequate to deal with the threat to public health and safety posed by dangerous and potentially dangerous dogs. (as added by Ord. #02-11, Oct. 2002)

**10-605. Citation for designation of dangerous dog or potentially dangerous dog; hearing; designation of dangerous dog or potentially dangerous dog; imposition of conditions; no change of ownership pending hearing.** (1) If an animal services officer or a law enforcement officer has investigated and determined that there is probable cause to believe that a dog is potentially dangerous or dangerous, a citation shall be issued for the owner to appear in city court for the purpose of determining whether or not the

dog in question should be designated a potentially dangerous dog or dangerous dog. Except by agreement of the respondent and counsel for the city and with the approval of the judge, the hearing shall be held not less than five (5) nor more than thirty five (35) business days after service of citation upon the owner or keeper of the dog.

(2) The court shall designate a dog as a "potentially dangerous dog" if the court finds, upon a preponderance of the evidence, that the dog:

(a) Has attempted to attack or has attacked a person or domestic animal within the prior eighteen (18) month period; or

(b) Has, within the prior eighteen (18) month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive actions to prevent bodily injury; or

(3) The court shall designate a dog as a "dangerous dog" if the court finds, upon preponderance of the evidence, that the dog:

(a) Has attempted to attack or has attacked a person or domestic animal on two (2) or more occasions within the prior eighteen (18) month period; or

(b) Has, on two (2) or more occasions within the prior eighteen (18) month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent bodily injury; or

(c) Has, when unprovoked while off the property of its owner, bitten a person or a domestic animal causing a severe injury; or

(d) Has previously been declared a potentially dangerous dog but has not been kept in compliance with any restrictions placed by the city court judge upon the owner of such dog; or

(e) Has been owned, possessed, kept, used or trained in violation of Tennessee Code Annotated, § 39-14-203.

(4) No dog may be declared potentially dangerous or dangerous as a result of injury or damage if, at the time the injury or damage, the victim of the injury or damage

(a) Was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog,

(b) Was teasing tormenting, abusing or assaulting the dog, or

(c) Was committing or attempting to commit a crime.

No dog may be declared potentially dangerous or dangerous if the dog was protecting or defending a person within the immediate vicinity or the dog from an unjustified attack. No dog may be declared potentially dangerous or dangerous if an injury or damage was sustained by a domestic animal which, at the time of the injury or damage, was teasing, tormenting, abusing or assaulting the dog. No dog may be declared potentially dangerous or dangerous if injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog or predator control dog on the property of; or under the

control of, its owner or keeper, and the damage or injury was appropriate to the work of the dog.

(5) Upon designating a dog as a dangerous dog or a potentially dangerous dog, the court shall impose the restrictions on the owner of such dog as set forth in this article and may impose such additional restrictions on the respondent as are appropriate under the circumstances of the case. The court shall reduce such restrictions to writing and have them served on the respondent.

(6) It shall be unlawful for any person who is subject to any such restrictions to fail to comply with such restrictions.

(7) It shall be unlawful for any person who has been served with a citation to appear in city court for the purpose of determining whether such person's dog should be designated as a potentially dangerous dog or dangerous dog transfer ownership of such dog until after the city court has issued a ruling on such a citation. It shall be unlawful for any person whose dog has been designated as a potentially dangerous dog or dangerous dog to transfer ownership of such dog to another person without

(a) Having advised such other person that the dog has been designated as potentially dangerous dog or dangerous dog and

(b) Having advised such other person in writing of the restrictions that have been placed upon such dog. (as added by Ord. #02-11, Oct. 2002)

**10-606. Notice of designation.** Within ten (10) working days after a hearing conducted pursuant to this chapter, the owner or keeper of the dog, if absent from the hearing, shall be notified by the city court in writing of the decision of the court and of any restrictions imposed upon the respondent, either personally through ASD or by first-class mail, the owner or keeper shall comply with all restrictions imposed by this article and by the city court. (as added by Ord. #02-11, Oct. 2002)

**10-607. Impoundment and abatement of potentially dangerous dog or dangerous dog.** (1) If upon investigation it is determined by the animal services officer or law enforcement officer that probable cause exists to believe a dog poses immediate threat to public safety, then the animal services officer or law enforcement officer may immediately seize and impound the dog pending a hearing to be held pursuant to this chapter. At the time of an impoundment pursuant to this subsection or as soon as practicable thereafter, the officer shall serve upon the owner or custodian of the dog a notice of a hearing to be held pursuant to this chapter to declare the dog dangerous or potentially dangerous.

(2) Any animal services officer may impound any potentially dangerous dog or dangerous dog if the animal services officer has reasonable cause to believe that any of the mandatory restrictions upon such dog are not

being followed if the failure to follow such restrictions would likely result in a threat to public safety. The owner or custodian of a potentially dangerous dog or dangerous dog shall surrender such a dog to any animal services or law enforcement officer upon demand. In the event such a dog is impounded, the animal services officer shall serve a citation upon the owner of such dog for violation of the provisions of this chapter.

(3) If a dog has been impounded pursuant to subsection (1) or subsection (2), the animal services manager may permit the dog to be confined at the owner's expense in a veterinary facility pending a hearing pursuant to this chapter, provided that such confinement will ensure the public safety.

(4) No dog that has been designated by the court as a dangerous dog or potentially dangerous dog may be released by the animal shelter or a veterinarian until the owner has paid all veterinarian cost and all other fees and cost of the animal shelter that are normally charged to an owner prior to redemption of the animal. If the owner fails to pay such fees and costs and take possession of the dog within ten (10) days of the owner's receipt of the designation of the dog as a dangerous dog or potentially dangerous dog, the dog shall be deemed to have been abandoned and may be disposed of by ASD. Euthanasia or surrender to ASD or the animal shelter of such a dog does not free the owner of responsibility for all cost incurred up to and including the date of euthanasia or surrender. (as added by Ord. #02-11, Oct. 2002)

**10-608. Possession unlawful without proper restraint; failure to comply with mandatory restrictions.** Once the dog is designated as a potentially dangerous dog by the Greenbrier City Court, the following shall be restrictions are mandatory upon the owner or custodian of such dog:

(1) The dog must be kept indoors or confined on the owner's or keeper's property by a fence (other than an "electronic fence") capable of confining the dog or by a proper enclosure;

(2) The owner must allow inspection of the dog and its enclosure by the ASD and must produce, upon demand, proof of compliance with such restrictions;

(3) In the event that the owner or custodian of the dog is a tenant on real property where the dog is being kept, the owner or custodian must obtain written permission, to be filed with the ASD, to keep the dog on certain specified premises from the landlord or property owner;

(4) The owner and dog must attend and complete a course on commonly accepted dog obedience methods approved by the ASD; and

(5) The court may impose additional restrictions that the court deems necessary. (as added by Ord. #02-11, Oct. 2002)

**10-609. Mandatory restrictions on dangerous dogs.** (1) If the dog is designated as a dangerous dog by the Greenbrier City Court, the owner or custodian of such dog shall comply with the following restrictions:

(a) The dog must be kept in a proper enclosure if the dog is maintained unattended out-of-doors; such proper enclosure must be enclosed within an outer fence, and the outer perimeter of the proper enclosure must be no less than five feet from the outer fence;

(b) The owner must allow inspection of the dog and its enclosure by the ASD and must produce, upon demand, proof of compliance with the restrictions set forth in this section and any additional restrictions imposed by the city court;

(c) In the event that the owner or custodian of the dog is a tenant on real property where the dog is being kept, the owner or custodian must obtain written permission, to be filed with the ASD, to keep the dog on certain specified premises from the landlord or property owner;

(d) The owner and dog must attend and complete a training class and/or behavior modification course approved by the ASD that is designed to teach the owner how to deal with, correct, manage and for alter the problem behavior;

(e) A sign, available exclusively from ASD, the cost of which shall be included in the annual fee for a dangerous dog, having reflective letters and backing with letters measuring at least one and one half (1.5) inches in width and one and one half (1.5) inches in height and reading "beware of dangerous dog" shall be posted in a conspicuous place at all entrances to the premises on or within which such dog is kept;

(f) A dangerous dog shall not be permitted to leave the premises of the owner unless such dog is properly restrained and humanely muzzled for protection of persons and other animals;

(g) A dangerous dog may never, even with the owner present, be allowed to be unrestrained on property that allows the dog direct access to the public;

(g) The owner of a dangerous dog shall not permit such a dog to be chained, tethered or otherwise tied to any inanimate object such as a tree, post or building, inside or outside of its separate enclosure;

(i) Such dog shall be photographed by the ASD for future identification purposes;

(j) Neutering or spaying of the dog;

(k) Requiring the owner of the dog or owner of the premises on which the animal is kept to obtain and maintain liability insurance in the amount of one hundred thousand dollars (\$100,000.00) and to furnish a certificate of insurance;

(l) Maintaining and updating annually a record maintained with ASD that list the dog owner(s) or agent contact information, emergency contact persons and phone numbers, veterinarian, landlord and/or property owner contact information, property/liability insurance

carrier, vaccination, licensing and/or permit number, photo of the animal and any other information deemed necessary by the ASD;

(m) Notification in writing to the ASD of the location of the dog's residence, temporary or permanent, including prior notice of plans to move the dog to another residence within the city or outside the city and/or to transfer ownership of the dog; and

(n) Any other reasonable requirement specified by the city court.

(o) The cost of all such restrictions must be paid by the owner.  
(as added by Ord. #02-11, Oct. 2002, and amended by Ord. #08-09, June 2, 2008)

**10-610. Removal of designation of potentially dangerous dog.** If there are no additional instances of the behavior described in § 10-605 within eighteen (18) months of the date of designation as potentially dangerous dog, the dog shall automatically be removed from the list of potentially dangerous dogs. The dog may be, but is not required to be, removed from the list of potentially dangerous dogs prior to expiration of the eighteen (18) month period if the owner or keeper of the dog demonstrates to the ASD that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, confinement, etc., have mitigated the risk to the public safety; in such event, the owner or the ASD may petition the city court to remove such designation. (as added by Ord. #02-11, Oct. 2002)

**10-611. Change of ownership, custody or location of dog; death of dog.** (1) The owner or custodian of a dangerous dog or potentially dangerous dog who moves or sells the dog, or otherwise transfers the ownership, custody or location of the dog, shall, at least fifteen (15) days prior to the actual transfer or removal of the dog, notify ASD in writing of the name, address and telephone number of the proposed new owner or custodian, the proposed new location of the dog, and the name and description of the dog.

(2) The owner or custodian shall, in addition to the above notify any new owner or custodian of a dangerous dog or potentially dangerous dog in writing regarding the details of the dog's record and the terms and conditions for confinement and control of the dog. The transferring owner or custodian shall also provide ASD with a copy of the notification to the new owner or custodian of his or her receipt of the original notification and acceptance of the terms and conditions. ASD may impose different or additional restrictions or conditions upon the new owner or custodian.

(3) If a dangerous dog or potentially dangerous dog should die, the owner or custodian shall notify ASD no later than twenty-four (24) hours thereafter and, upon quest, from ASD shall produce the animal for verification or evidence of the dog's death that is satisfactory to ASD.

(4) If a dangerous dog or potentially dangerous dog escapes, the owner or custodian shall immediately notify ASD and make every effort to recapture the escaped dog to prevent injury and/or death to humans or domestic animals.

(5) The following persons must notify ASD when relocating a dog to Greenbrier, even on a temporary basis:

(a) The owner of potentially dangerous or dangerous dog that has been designated as such by another lawful body other than the City of Greenbrier; and

(b) The owner of a dog that has had special restrictions placed against it by any humane society or governmental entity or agency other than the City of Greenbrier based upon the behavior of the dog.

No such designation as a dangerous dog or potentially dangerous dog or any similar such designation shall be recognized by the City of Greenbrier if such designation is based solely on the breed of the dog. Such owner is subject to the restrictions set forth in this chapter. (as added by Ord. #02-11, Oct. 2002)

## CHAPTER 7

### GUARD DOGS

#### SECTION

- 10-701. Guard dog purveyor; license; fees.
- 10-702. Guard dog purveyor; license; application; contents.
- 10-703. Guard dog trainer; license; application; contents.
- 10-704. Guard dog; registration; annual fee; other requirements.
- 10-705. Inspections.
- 10-706. Limitations.

**10-701. Guard dog purveyor; license; fees.** (1) It is unlawful for any person, firm or corporation to supply guard dogs to the public without a valid license so to do issued to said person, firm or corporation by ASD. Only a person who complies with the requirements of this chapter and such rules and regulations of ASD as may be adopted pursuant hereto shall be entitled to receive and retain such a license. License shall not be transferable and shall be valid only for the person and place for which issued. Said license shall be valid for one year from date of issue.

(2) The fee for such license shall be two hundred fifty dollars (\$250.00) per year, to be renewed annually. (as added by Ord. #02-11, Oct. 2002)

**10-702. Guard dog purveyor; license; application; contents.** Any person desiring to supply guard dogs to the public shall make written application for a license on a form to be provided by the ASD. Such application shall be filed with the ASD and shall include the following:

(1) A legal description of the premises or the business address of the office from which said applicant desires to supply guard dogs;

(2) A statement of whether the applicant owns or rents the premises to be used for the purpose of purveying guard dogs. If the applicant rents the premises, the applicant shall be accompanied by a written statement of acknowledgment by the property owner that the applicant has the property owner's permission to purvey guard dogs on the premises for the duration of the license; and

(3) A written acknowledgment by the applicant that prior to the actual commercial sale or purveyance of any and all guard dogs the license shall coordinate with the appropriate registration fee to the City of Greenbrier prior to the animal performing guard dog functions. (as added by Ord. #02-11, Oct. 2002)

**10-703. Guard dog trainer; license; application; contents.** Any person desiring to train dogs as guard dogs shall make written application for

a license on a form to be provided by the ASD. All such applications shall be filed with the ASD and shall contain the following:

(1) A legal description or business address of the premises at which the applicant desires to train the guard dogs;

(2) A statement of whether the applicant is self-employed or a member of a business, firm, corporation or organization which trains guard dogs. If the applicant is a member of such a business, firm, corporation or organization, the applicant shall state the name of said entity and shall provide the name of the major executive officer of said entity; and

(3) If the premises at which the applicant proposes to train dogs as guard dogs is rented, the application must be accompanied by a written statement of acknowledgment from the property owner that the applicant has the owner's permission to carry on the activity of guard dog training at said location for the duration of the license.

(4) The fee for such license shall be fifty dollars (\$50.00) per year, to be renewed annually. (as added by Ord. #02-11, Oct. 2002)

**10-704. Guard dog; registration; annual fee; other requirements.**

(1) All persons using dogs as guard dogs shall register the dogs with the ASD. Said registration shall be valid for one year and must be renewed annually. The ASD shall issue a tag which shall be affixed on the guard dog in such a manner so as to be readily identifiable. Such registration shall be filed with the ASD and shall include the following:

(a) A legal description or business address of the premises which the applicant desires to employ a registered guard dog to prevent unauthorized intrusion;

(b) A statement whether the applicant owns or rents the premises to be guarded. If the applicant rents the premises, the applicant must be accompanied by a written statement of acknowledgment from the property owner that the applicant has the owner's permission to use a guard dog on the premises to prevent unauthorized intrusion for the duration of the registration:

(c) A description of the guard dog for purposes of identification;

(d) Acknowledgment by the applicant whether the guard dog has been trained as guard dog to exhibit hostile propensities;

(e) Acknowledgment by the applicant that the premises to be guarded has devices, such as fencing, to prevent general access by the public during those times the guard dog is used for purposes of protecting said premises and persons from unauthorized intrusion. Said acknowledgment shall contain a statement that the premises is properly signed to forewarn the public of the presence of a guard dog; and

(f) Acknowledgment by the applicant that the guard dog will be maintained in such a manner as to insure the safety of the public and the welfare of the animal.

(2) The fee for registering a guard dog shall be seventy-five dollars (\$75.00) per year, to be renewed annually.

(3) The owner of any property on which a guard dog is located shall post signs in conspicuous places at all entrances to such property with reflective letters a minimum of two (2) inches and a maximum of ten (10) inches in height stating "beware of guard dog on the property." Such sign shall also have a telephone number for law enforcement officers or firefighting personnel to call in an emergency situation or other situation in which the dog owner's or handler's presence is required. (as added by Ord. #02-11, Oct. 2002)

**10-705. Inspections.** The director of the ASD or his authorized representative shall annually inspect all premises which are the subject of the license and registrations required herein prior to the issuance of said licenses and/or registrations. Said inspectors shall include, but not limited to, a verification that adequate measures are being taken to protect the health, welfare and safety of the general public and to insure the humane treatment of the guard dogs. If the premises are deemed inadequate, the ASD shall direct the applicant to make such changes as are necessary before the license or registration is issued or renewed. The director of the ASD may make such routine periodic inspections of a licensee's premises or the premises of an area guarded by a registered guard dog for the purpose of enforcing the provisions of this chapter. (as added by Ord. #02-11, Oct. 2002)

**10-706. Limitations.** The provisions of the article shall not apply to any facility possessing or maintaining guard dogs which is owned, operated or maintained by any city, county, state or the federal government; provided private parties renting or leasing public facilities for commercial purposes as specified in this chapter shall not be exempt. (as added by Ord. #02-11, Oct. 2002)

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

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

#### CHAPTER 1

#### ALCOHOL<sup>2</sup>

#### SECTION

11-101. Drinking beer, etc., on streets, etc.

**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 in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public. (1970 Code, § 10-228)

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<sup>1</sup>Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

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

11-201. Fortune telling, etc.

**11-201. Fortune telling, etc.** It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1970 Code, § 10-233)

**CHAPTER 3**

**OFFENSES AGAINST THE PERSON**

**SECTION**

11-301. Assault and battery.

**11-301. Assault and battery.** It shall be unlawful for any person to commit an assault or an assault and battery. (1970 Code, § 10-201)

## CHAPTER 4

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

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

**11-401. 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. (1970 Code, § 10-202)

**11-402. 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, streetcar, or other 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 persons 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, streetcar, 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) Building operations. The 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.

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

(h) 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.

(i) 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.

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

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

(a) Municipal vehicles. Any vehicle of the municipality 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 municipality, 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. (1970 Code, § 10-232, modified)

## CHAPTER 5

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with an officer.

11-505. Coercing people not to work.

**11-501. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1970 Code, § 10-209)

**11-502. Impersonating a government officer or employee.** No person other than an official police officer of the municipality 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 municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1970 Code, § 10-211)

**11-503. False emergency alarms.** It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1970 Code, § 10-217)

**11-504. Resisting or interfering with an officer.** It shall be unlawful for any person to knowingly resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1970 Code, § 10-210)

**11-505. Coercing people not to work.** It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1970 Code, § 10-229)

**CHAPTER 6****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

**11-601. Air rifles, etc.** It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, or "BB" gun, capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1970 Code, § 10-213, modified)

**11-602. Throwing missiles.** It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1970 Code, § 10-214)

**11-603. Weapons and firearms generally.** It shall be unlawful for any unauthorized person to discharge a firearm within the municipality except for educational purposes which are supervised and for turkey shoots which have obtained permits from the police department. (Ord. #95-06, Oct. 1995)

**CHAPTER 7****TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE  
WITH TRAFFIC****SECTION**

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

**11-701. Trespassing.** The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1970 Code, § 10-225)

**11-702. 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 the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1970 Code, § 10-221)

**11-703. Malicious mischief.** It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1970 Code, § 10-224)

**11-704. 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. (1970 Code, § 10-231)

**CHAPTER 8****MISCELLANEOUS****SECTION**

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Curfew for minors.

**11-801. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1970 Code, § 10-222)

**11-802. 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. (1970 Code, § 10-230)

**11-803. 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. (1970 Code, § 10-226)

**11-804. Curfew for minors.** It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 P.M. unless upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1970 Code, § 10-223)

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

1. VARIOUS CODES ADOPTED.
- 2.-12. [DELETED].

**CHAPTER 1**

**VARIOUS CODES ADOPTED<sup>12</sup>**

**SECTION**

- 12-101. Codes adopted by reference.
- 12-102. Repealer.
- 12-103. Enforcement official.

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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.
- Cross connections: title 18.
- Street excavations: title 16
- Wastewater treatment: title 18.
- Water and sewer system administration: title 18.

Ordinance #00-10, Jan. 2001 establishes a fee for grading permits and is of record in the recorder's office.

<sup>2</sup>Copies of these codes (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Ordinance #98-08, April 1998 provides:

"Fees for the review of subdivision plats to be collected by Town of Greenbrier Building Inspector."

and,

"The Greenbrier Building Inspector and/or the Greenbrier Municipal Planning Commission is hereby empowered and directed to charge and collect at the time a request is made for these particular services."

and,

Ordinance #05-09, June 2005 provides:

"Building permit fee schedules."

**12-101. Codes adopted by reference.** The following codes and all appendixes are hereby adopted by reference as though they were copied herein fully unless otherwise stated:

International Building Code - 2012 Edition  
 International Energy Conservation Code - 2012 Edition  
 International Electrical Code - 2012 Edition  
 International Existing Building Code - 2012 Edition  
 International Fire Code - 2012 Edition  
 International Fuel Gas Code - 2012 Edition  
 International Mechanical Code - 2012 Edition  
 International Plumbing Code - 2012 Edition  
 International Property Maintenance Code - 2012 Edition  
 International Residential Code - 2012 Edition\*  
 \*Omit in its entirety section R313 Automatic Fire Sprinkler Systems, leaving requirement of townhomes in the adopted edition of the IRC.  
 National Fire Prevention Code - Latest Edition  
 Accessibility Code - ICC-ANSI A117.1 - 2009 Edition

All Appendixes of all codes listed above. (Ord. #093-1, March 1993, as amended by Ord. #99-11, Oct. 1999, replaced by Ord. #06-02, March 2006, and amended by Ord. #14-04, May 2014, and Ord. #17-04, March 2017 **Ch7\_12-2-19**)

**12-102. Repealer.** Any matters in said codes which are contrary to existing ordinances of the Town of Greenbrier, Robertson County, Tennessee, shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #093-1, March 1993, as amended by Ord. #99-11, Oct. 1999 and replaced by Ord. #06-02, March 2006)

**12-103. Enforcement official.** The duties of a certain official named therein, that designated official of the Town of Greenbrier, Robertson County, 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. (Ord. #093-1, March 1993, as amended by Ord. #99-11, Oct. 1999 and replaced by Ord. #06-02, March 2006)

**CHAPTERS 2 – 12**

**[DELETED]**

(as deleted by Ord. #06-02, March 2006)

## TITLE 13

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

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. TREE PROTECTION AND PLANTING PROVISIONS.
4. JUNKED VEHICLES ON PUBLIC AND PRIVATE PROPERTY.
5. RESIDENTIAL RENTAL REGULATIONS.
6. SLUM CLEARANCE.

#### 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. House trailers.
- 13-108. Storage and display of tires and related items.
- 13-109. Violations and penalty.

**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. (1970 Code, § 8-401)

**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. (1970 Code, § 8-405)

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

**13-103. Stagnant water.** It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1970 Code, § 8-406)

**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) Standards. The owners and occupants of real property in the City of Greenbrier, Tennessee, whether the same be vacant or occupied, are hereby required to keep all trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements weeds, wild bushes, rank or noxious vegetation and rubbish of every kind and character cleared and removed from such property and to keep grass mowed to an acceptable height (not over twelve inches (12") in height) as seen from the traveled portion of any public street or highway. Debris shall include automobiles of more than five (5) years of age remaining unmoved and inoperable for a period of thirty (30) consecutive days.

(3) Designation of public officer or department. The board of mayor and aldermen designate the property standards officer to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsections (1) and (2) 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 United States mail, addressed to the last known address of the owner of record, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. 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 Greenbrier Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

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

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of 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 through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom 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 Robertson County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) 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.

(7) 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 city recorder. 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.

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

(9) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of 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. (Ord. #88-6, Aug. 1988, as replaced by Ord. #05-02, March 2005, and Ord. #07-10, July 2007, amended by Ord. #14-06, May 2014, and replaced by Ord. #18-13, Dec. 2018 *Ch7\_12-2-19*)

**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. (1970 Code, § 8-408)

**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. (1970 Code, § 8-409)

**13-107. House trailers**. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the municipality and unless a permit therefor shall have been first

duly issued by the building official, as provided for in the building code. (1970 Code, § 8-404)

**13-108. Storage and display of tires and related items.** No tires, whether new or used that are intended for sale, shall be displayed in such a way so as to collect stagnant water. All tires shall be stored, stacked, displayed, piled, kept inside a building or structure, or by any other means in order to prevent the accumulation of stagnant water. All outside displays of tires shall be stored during non-business hours within a permanent enclosed structure in such a way to prevent the collection and retaining of water. This section shall also apply to tires for sale located on personal property. It is the responsibility of the owner or tenants of any premises to prevent the accumulation of stagnant water in any tire product or equipment indicative of the business service or for personal use, as indicated in § 13-103 of this chapter. (as added by Ord. #09-10, Oct. 2009)

**13-109. Violations and penalty.** Any person violating this ordinance shall also be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this ordinance. Each day the violation of this ordinance continues shall be considered a separate violation. (as added by Ord. #18-13, Dec. 2018 *Ch7\_12-2-19*)

**CHAPTER 2****JUNKYARDS****SECTION**

## 13-201. Junkyards.

**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 (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1970 Code, § 8-410)

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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).

## CHAPTER 3

### TREE PLANTING AND PROTECTION

#### SECTION

- 13-301. Findings of fact and statement of legislative intent.
- 13-302. Definitions.
- 13-303. Administration.
- 13-304. Exemptions.
- 13-305. Protection of existing tree cover.
- 13-306. Site plan review.
- 13-307. Residential subdivision development.
- 13-308. Grading and tree protection plan.
- 13-309. Tree planting procedures.
- 13-310. Tree maintenance.
- 13-311. Tree removal.

**13-301. Findings of fact and statement of legislative intent.** The board of mayor and aldermen find that:

(1) Trees are proven producers of oxygen, a necessary element for human survival.

(2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe.

(3) Trees transpire considerable amounts of water each day and thereby purify the air much like air-washer devices used on commercial air conditioning systems.

(4) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers.

(5) Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control, and flood control.

(6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and

(7) For reasons indicated herein trees have an important impact on the desirability of land and therefore property values. (as added by Ord. #00-01, April 2000)

**13-302. Definitions.** The following terms used within this chapter shall be defined as follows:

- (1) "Buildable area." That portion of a lot on which a structure or improvement may be erected in accordance with current zoning provisions.
- (2) "Caliper inches (CI)." Quantity in inches of the diameter of supplemental and replacement trees measured at the height of six inches (6") above the ground for trees of four inches (4") and under in trunk diameter and twelve inches (12") above the ground for trees of more than four inches (4") in trunk diameter. (Caliper inches shall be used to measure newly planted material)
- (3) "Conifer tree." Any tree with needle leaves and a woody cone fruit.
- (4) "Cover area." The circumferential area within the drip line of the tree.
- (5) "Deciduous." Those trees that shed their leaves in fall or winter.
- (6) "Diameter at breast height (DBH)." The diameter in inches of a tree measured at four and one-half (4 ½) feet above the existing grade. (DBH shall be used to measure existing trees to remain.)
- (7) "Drip line." A vertical line extending from the outermost portion of the tree canopy to the ground.
- (8) "Endangered species." Those trees that are under protection of state and/or federal law.
- (9) "Evergreen." Those trees including broad leaf and conifer evergreens, that maintain their leaves year round.
- (10) "Heritage tree." A tree of significant age or stature that constitutes a unique asset to the community.
- (11) "Overstory." Those trees that compose the top layer or canopy of vegetation.
- (12) "Replacement planting." The planting of trees on a site that before development had more than the minimum standard trees per acre, but would be less than the minimum after development.
- (13) "Supplemental planting." The planting of trees on a site that prior to development had less than the minimum standard of trees per acre.
- (14) "Tree." Any living, self-supporting woody or fibrous plant which is a conifer, evergreen, deciduous or ornamental, as defined herein.
- (15) "Tree density units (TDU)." The number value resulting from the tree value factor (TVF) times the actual measured inches (DBH) of trees in each respective category of trees.
- (16) "Tree protection zone." The area around a tree corresponding to the drip line of a mature tree or ten (10) feet in all directions from the trunk of other trees, at the discretion of the code enforcement officer.
- (17) "Tree value factor (TVF)." The numerical value assigned to each tree category. (as added by Ord. #00-01, April 2000)

**13-303. Administration.** The city tree program shall be administered by the department of code enforcement. This department shall be supported in

the enforcement of this chapter by other departments and agencies of the city as specified herein. Specific areas of responsibility are assigned as follows:

(1) Department of code enforcement. The department of code enforcement shall provide overall enforcement of this chapter through the office of building inspection. The department shall provide inspection of development sites to ensure compliance with the tree protection and grading criteria specified within this chapter.

(2) Planning commission. The planning commission shall review development plans, specifically including site development plans and subdivisions of land for compliance with the provisions of this chapter.

(3) Greenbrier Park Board. The Greenbrier Park Board shall function as the tree board in order to:

(a) Provide and coordinate publicity concerning trees and the tree protection program of the city.

(b) Recognize groups and individuals for their actions taken in furtherance of tree protection projects.

(c) Coordinate donations of trees or money given for that purpose.

(d) Evaluate and recommend to the board of mayor and aldermen unique tree(s) to be designated as a "Heritage Tree."

(e) Oversee and make recommendations pertaining to tree management practices utilized in city parks and all other public lands within the city. (as added by Ord. #00-01, April 2000)

**13-304. Exemptions.** The following shall be exempt from the tree protection requirements.

(1) Utility operations. Excavation, tree pruning and removals by duly constituted communication, water, sewer, electrical or other utility companies or federal, state, or local government agencies, or engineers or surveyors working under a contract with such utility companies or agencies shall be exempt, provided the activity is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that the activity is conducted so as to avoid any unnecessary removal and, in the case of aerial electrical utility lines, is not greater than that specified by the National Electrical Safety Codes, as necessary to achieve safe electrical clearances. All pruning and trimming shall be done in accordance with National Arbor Day Association Standards.

(2) Commercial growers. All commercial nurseries, botanical gardens, tree farms and grove operations shall be exempt from the provisions of this part, but only those trees and sites which are planted or managed for silvacultural or agricultural purposes.

(3) Surveyors. A licensed land surveyor in the performance of duties, provided such alteration or removal is limited to a swath of three (3) feet or less in width.

(4) Emergencies. During emergencies caused by natural disaster, the provisions of this section may be suspended by the mayor.

**13-305. Protection of existing tree cover.** Commercial and residential developments within the city should reflect the city's commitment to trees. This includes the preservation of existing trees whenever practical and the judicious planting of new tree materials. A permit will be required of a builder/developer for any construction work that will impact on existing trees.

(1) Tree protection - private land. (a) Undeveloped property. To prevent the unnecessary destruction of trees on undeveloped property, the destruction within any five (5) year period of fifteen percent (15%) or more of the live trees four (4) inches or more in DBH on any one parcel or real property located within the city, without prior approval of grading and tree protection plan (See Section "H," below) shall be prohibited. This provision shall not apply to any property which at the time of adoption of this chapter or at any time within the future is under protection of the "Agricultural Forest and Open Space Land Act of 1976," (See Tennessee Code, 67-5-1000).

(b) Tree protective zone. All lots utilized as sites for single and two family detached housing shall have a tree protective zone designated thereon. The tree protective zone shall correspond with that portion of a zone lot which lies outside the "buildable area" of such lot as defined by this chapter. To prevent the unnecessary destruction of trees during development or redevelopment of any tract or lot, trees shall not be cut, otherwise, damaged or destroyed within the tree protective zone, except in accordance with the provisions of this section; nor shall any person pave with concrete, asphalt, or other impervious material within the cover area of any tree.

(c) Protection during development. To assure the survival and health of protected trees that are not to be removed, the developer shall avoid the following kind of tree injuries during all development activities:

- Mechanical injuries to roots, trunk and branches;
- Injuries by chemical poisoning;
- Injuries by changes in grade;
- Injuries by excavations; and
- Injuries by paving.

During any building, renovating or razing operations, the builder shall erect and maintain suitable protective barriers around all trees specified to be maintained so as to prevent damage to said trees and shall not allow storage of equipment, materials, debris or fill to be placed in this area except as may be necessary for a reasonable time if no other storage space

is available. The type and nature of these protective barriers shall be indicated upon the approved site plan or grading and tree protection plan.

(d) Development limited within tree protection zone. All development activities, except those specifically permitted by this section shall be prohibited within the tree protection zone. All temporary construction activities shall also be prohibited within tree protection areas, including all digging, concrete washing, storage of construction material, and parking of construction vehicles. The following activities may be permitted within the designated tree protection zone or any residential lot:

(i) Utility excavation. Excavating or trenching for utilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case utility lines shall be tunneled beneath tree roots in order to protect feeder roots.

(ii) Drainage construction. Excavating or trenching for construction of drainage facilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case drainage facilities shall be designated so as to avoid covered areas of such trees.

(iii) Driveway construction. Excavating or trenching for construction of driveways shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case no person shall pave with concrete, asphalt, or other impervious material within the cover area of any such tree.

(2) Public tree protection. The provisions set forth below shall apply to trees located upon public right-of-ways and within public parks:

(a) No person shall, without the written permission of the city remove, destroy, break, cut or deface any tree or shrub that is growing in any public right-of-way or city park.

(b) No person shall directly or indirectly permit any toxic chemical or any toxic substance to seep, or drain or be emptied on or about any tree that is growing in public right-of-way or city parks.

(c) No person shall directly or indirectly place stone or cement or other substance about the tree growing in the street rights-of-way which will impede the tree entrance of water or air to the roots of such trees without leaving an open space of ground about the trunk of such tree of not less than sixteen (16) square feet.

(d) No person shall remove, damage or misuse, or attach any foreign object to any guard or device placed or intended to protect any tree, plant or shrub growing in any public right-of-way or city parks.

(e) No person shall attach or place any rope, wire, sign poster, handbill or any other thing on any tree or shrub growing in any public right-of-way or city parks.

(f) During the erection, demolition, or repair of any building or structure, the owner, thereof, shall place or cause to be placed guards around all nearby trees growing in the street right-of-way so as to prevent injury to them. (as added by Ord. #00-01, April 2000)

**13-306. Site plan review.** (1) Required tree density. On developments that are required to have site development plan approval the quality of trees located upon a site shall meet a minimum tree density criteria. A fixed formula will balance the number, size and category of trees preserved with the number and size of trees planted in order to retain minimum desired density factor. The resultant factor shall be no less than twenty (20) tree density units (TDU's) per acre. Existing trees and newly planted trees contribute to the total density with the minimum tree size considered for existing trees to be six (6) inches DBH, and the maximum tree size for existing trees to be forty (40) inches DBH.

The following tree value factors (TVF) shall be multiplied by the respective DBH or CI, for the total number of trees to arrive at the total tree density units (TDU) for the site. (See Appendix A,<sup>1</sup> for a list of trees by category.) Any tree type not listed shall have a TVF of Zero (0), unless approved, otherwise, by the tree board.

(2) Tree density unit (TDU) calculation. The tree value factors (TVF) presented below for various categories of trees shall be multiplied by the respective DBH or CI, for the total number of trees within each respective category to arrive at the tree density units (TDU) for each category.

### **Tree Value Factors**

|                |      |
|----------------|------|
| Category One   | 1.00 |
| Category Two   | 0.75 |
| Category Three | 0.50 |

(TVF Category One) X (DBH or CI, for the total number of trees) = TDU Category One  
 (TVF Category Two) X (DBH or CI, for the total number of trees) = TDU Category Two  
 (TVF Category Three) X (DBH or CI, for the total number of trees) = TDU Category Three  
 TDU Category One + TDU Category Two + TDU Category Three = Combined TDU

The TDU's for each of the three categories are then added to form the combined TDU, for the site. The combined TDU is applied as an average over the total acreage in the development site. The combined TDU, of existing and replacement trees, shall be a minimum of twenty (20) times the gross acreage of the development site. Ideally, the trees should be located upon the site so

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<sup>1</sup>Appendix A to this chapter can be found after the Appendix tab of this municipal code.

that each acre of the site comes as close as possible to the prescribed unit of tree density per acre.

(3) Payment in lieu. If the applicant demonstrates to the satisfaction of the planning commission that the site cannot accommodate the total number of required trees as a result of insufficient planting area, the applicant shall provide a monetary contribution to the Tree Protection and Related Expenses Trust Fund. The amount of such contribution shall be determined as follows: for every two (2) caliper inches, or fraction thereof, of replacement trees which would otherwise be required, the contribution shall be equal to the retail value of a planted two (2) inch caliper nursery grown shade tree. The retail value shall be calculated by taking the average of the median current wholesale price for a container grown, or a balled and burlapped two (2) inch caliper northern red oak, multiplied by two (2). The retail value shall be recalculated and adjusted annually on October 1<sup>st</sup>. (as added by Ord. #00-01, April 2000)

**13-307. Residential subdivision development.** Following adoption of this provision, in all residential subdivisions approved within the city at least one (1) "Category One" tree shall either exist or be planted in the front yard of every lot prior to final approval of the dwelling by the department of code enforcement. All trees planted to meet this requirement shall comply with the size, grade and height provisions of Section "I," of this chapter. (as added by Ord. #00-01, April 2000)

**13-308. Grading and tree protection plan.** A permit shall be required upon any site located within the city for all grading, earthmoving, changing of elevation of property, or removal of fifteen percent (15%) or more of the live trees four (4) inches or more in DBH.

(1) Permit required. Permits for work covered may be obtained after submission to the planning commission a written statement of the purpose of the work and a grading and tree protection plan prepared by a licensed surveyor, landscape architect, architect or engineer which shall include the following:

- (a) Location, size and variety of all trees with four (4) inch or greater DBH, to be removed or retained;
- (b) The nature and extent of the proposed grading, earthmoving or change in elevation; and
- (c) Applicant's plans for controlling on-site generated sedimentation, erosion and runoff.

(2) Plans to be approved. Any grading permit application shall be approved if it can be determined that:

- (a) That the grading plan, including tree removal, has been prepared and will be performed in accordance with good flood, erosion and sedimentation control practices and good forestry practices;
- (b) The application addresses the saving of existing trees;

(c) The application provides for sufficient and timely replanting of trees to compensate for trees removed. (as added by Ord. #00-01, April 2000)

**13-309. Tree planting procedures.** Tree planting shall be a required activity on public and private lands as specified in this chapter. For the purpose of this chapter, "public lands" shall be defined as all land owned by the City of Greenbrier. A planting program shall be developed by the city for public lands and conducted in a systematic manner to assure diversity of age classes and species.

(1) Species selection. All trees planted on public property shall be of a kind (species) referenced on the city's recommended tree list and approved by the city tree board.

(2) Size and grade. (a) Height classification. For purposes of this chapter, trees reaching up to twenty-five (25) feet in height at maturity are designated as small trees. Medium trees will mature at twenty-five to fifty (25-50) feet. Large trees will mature at heights greater than fifty (50) feet.

(b) Size. Unless, otherwise, specified by the city, all medium to large deciduous tree species and varieties, shall conform to American Association of Nurserymen Standards and be at least one and one-fourth (1 1/4) to one and one half (1 1/2) inches in caliper, six (6) inches above ground level, single stem, and at least eight (8) to ten (10) feet in height when planted. The crown shall be in good balance with the trunk. All small tree species and their cultivars or varieties, shall be at least five (5) to six (6) feet or more in height and have six (6) or more branches.

(c) Grade. Unless, otherwise, allowed for specific reasons, all trees shall have comparatively straight trunks, well developed leaders and tops, and root characteristic of the species or variety showing evidence of proper nursery pruning. All trees must be free of insects, disease, mechanical injuries and other objectionable features at the time of planting.

(3) Location and spacing. (a) Trees shall be planted at least forty (40) feet from street intersections or as directed by the department of public works.

(b) The following shall be used as a guide for tree planting on public rights-of-way, unless, otherwise, approved by the city:

| <u>FIXED OBJECT</u> | <u>MINIMUM PLANTING DISTANCE</u> |
|---------------------|----------------------------------|
| Alleyways           | 15 Feet                          |
| Driveways           | 10 Feet                          |

|                          |         |
|--------------------------|---------|
| Fire Hydrants            | 10 Feet |
| Manholes in Grass Strips | 5 Feet  |
| Street Lights            | 15 Feet |
| Removed Tree Stumps      | 3 Feet  |
| Utility Meters or Valves | 5 Feet  |
| Utility Poles            | 10 Feet |

(4) Protection of utilities. No street tree with a mature height greater than twenty-five (25) feet shall be planted within ten (10) feet of any overhead utility wire. No public tree or street tree shall be planted over or within five (5) lateral feet of any underground water, sewer or other utility transmission line (excluding telephone, cable TV and other individual service lines). (as added by Ord. #00-01, April 2000)

**13-310. Tree maintenance.** The city shall be responsible for maintenance activities needed to keep public trees healthy and to minimize the risk of injury to people or property.

(1) Tree topping prohibited. The practice of tree topping is prohibited on all public trees or state trees and is strongly discouraged as a tree care practice on private streets.

(2) Tree pruning practices. Tree pruning shall be performed in a manner that protects the public. Street, public and private, trees growing along streets and sidewalks shall be pruned free of limbs to a height of eight (8) feet for sidewalks and twelve (12) feet for streets, except those that are subject to truck traffic which shall have a clearance of sixteen (16) feet. No lateral growth shall be permitted onto the sidewalk or street below this height. Tree branches shall not obstruct the view of any traffic sign or control device. No tree or shrub shall obstruct any visibility area required at the intersection of public streets or at the intersection of a private drive with a public street. (as added by Ord. #00-01, April 2000)

**13-311. Tree removal.** Any tree or shrub located on public or private property which obstructs a public street or sidewalk, or which suffers from a communicable disease or insect infestation, or which threatens the public welfare or the health of public trees as determined by the city is hereby declared to be a public nuisance.

When such a public nuisance exists, the city may cause appropriate action to be taken as follows:

(1) Determination of hazard. The department of code enforcement with assistance from other departments shall evaluate the tree(s) as to the

degree of potential hazard. The evaluation shall result in one of the following actions.

(a) An evaluation of "imminent danger" means that the hazard is immediate. If the property owner cannot be contacted or refuses to remove the hazard, the city will take action immediately.

(b) An evaluation of "dangerous" means that the hazard is present but not immediate. The property owner will be contacted and be given seventy-two (72) hours to remove the hazard. After this time the city will initiate action.

(c) An evaluation of "potentially dangerous" means that a hazard will exist in the near future. The property owner will be notified and should remove the future hazard within sixty (60) days or provide "expert opinion" information as to why the hazard does not exist.

(2) Expense recovery. If the owner fails to comply with such notice in the specified time, the city shall cause such trees or shrubs to be pruned, treated or removed as necessary to eliminate the public nuisance. The city shall record all expenses involved in such work and shall be authorized to collect such expenses from the owner or person responsible for causing the correction to be required. (as added by Ord. #00-01, April 2000)

## CHAPTER 4

### JUNKED VEHICLES ON PUBLIC AND PRIVATE PROPERTY

#### SECTION

- 13-401. Definitions.
- 13-402. Violations--a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Penalty for violation.

**13-401. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Building and codes inspector" and "property standards official" shall mean the individuals employed by the City of Greenbrier to act on behalf of the city in carrying out the duties and responsibilities as described in the applicable job descriptions for each position.

(2) "Hobby cars" shall mean vehicles used for the purpose of a hobby, i.e. race cars and car restoration activities.

(3) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(4) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(5) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(6) (a) "Junked vehicle" shall mean a vehicle of any age that does not display a current license plate and vehicle registration and is damaged or defective in anyone or combination of any of the following ways that either makes the vehicle immediately inoperable or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential or axle;

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield or windows;

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake or gear shift lever;

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs or radiator;

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(vii) Lying on the ground (upside down, on its side, or at another extreme angle), sitting on block or suspended in the air by any other method;

(viii) General environment in which the vehicle sits, including, but not limited to vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, earth moving equipment and any part of the same. (as added by Ord. #05-10, Aug. 2005, and replaced by Ord. #07-11, July 2007)

**13-402. Violations--a civil offense.** It shall be unlawful and a civil offense for a person to:

(1) Park or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) Park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) Park, store, keep and/or maintain on private property a junk vehicle for more than three (3) days. (as added by Ord. #05-10, Aug. 2005, and replaced by Ord. #07-11, July 2007)

**13-403. Exceptions.** (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(c) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of the citizens of the city.

(2) Hobby cars, if stored outside shall be limited to two (2) vehicles on the property and stored in one of the following methods or a combination thereof:

(a) Inside an enclosed building.

(b) Behind a metal or wood privacy fence where neither the vehicle nor any part of it is visible from the street or the abutting property. The fence must be in compliance with all current zoning regulations.

(c) Vehicles may be stored inside an enclosed vehicle trailer.

(d) Storage and maintenance areas must not create excessive noise or the accumulation of spare vehicle parts about the property.

(e) Vehicle fluids must be properly handled in accordance with all city, state, EPA and storm water regulations. (as added by Ord. #05-10, Aug. 2005, and replaced by Ord. #07-11, July 2007)

**13-404. Enforcement.** Pursuant to Tennessee Code Annotated, § 7-63-101, the building and codes inspector and the property standards official are authorized to issue ordinance summons for violations of this chapter on private property. The building and codes inspector and/or the property standards official shall upon the complaint of any citizen, or acting on his own initiative, investigate complaints of junked vehicles on private property. If, after such investigation, the building and codes inspector or the property standards official finds a junked vehicle or hobby car in violation of this chapter on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to

the same to appear and answer charges against him or them. If the offender refuses to sign the agreement to appear, the building and codes inspector and/or the property standards official may (1) request a city judge to issue a summons or (2) request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et. seq. (as added by Ord. #05-10, Aug. 2005, and replaced by Ord. #07-11, July 2007, and Ord. #14-07, May 2014)

**13-405. Penalty for violation.** Any person violating this chapter shall be subject to a civil penalty of fifty (\$50.00) dollars plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues, it shall constitute a separate violation. (as added by Ord. #05-10, Aug. 2005, and replaced by Ord. #07-11, July 2007)

## CHAPTER 5

### RESIDENTIAL RENTAL REGULATIONS

#### SECTION

- 13-501. Registration required.
- 13-502. Registration application.
- 13-503. Inspection required.
- 13-504. Property maintenance.
- 13-505. Frequency of inspections.
- 13-506. Registration certificate required.
- 13-507. Certificate registration date.
- 13-508. Certificate transferability.
- 13-509. Requests for additional inspections.
- 13-510. Exemptions.
- 13-511. Records.
- 13-512. Other actions, prosecutions, court cases.
- 13-513. Nuisances, injunction.
- 13-514. Enforcement.
- 13-515. Penalty for violation.
- 13-516. Saving clause.
- 13-517. Severability.

**13-501. Registration required.** All owners of residential property within the city shall register each rental unit owned or operated within the city. An owner of residential property shall file a registration application with the City of Greenbrier within thirty (30) days after assuming ownership or control of the property, or after altering the number of size of rental units at a previously registered property. All owners of residential rental property at the time of incorporation by ordinance of this chapter within the Greenbrier Municipal Code shall file a registration application for their property within sixty (60) days after the effective date of said ordinance. The owner shall be responsible for all sub-leasing of his rental property. (as added by Ord. #07-01, May 2007)

**13-502. Registration application.**<sup>1</sup> Registration shall be made upon forms furnished by the City of Greenbrier and shall specifically require the following minimum information:

- (1) Name, address, and telephone number of property owner.
- (2) The street address of the rental property.

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<sup>1</sup>The rental property registration application for the City of Greenbrier appears at the end of this chapter as Exhibit A.

(3) The name, address, and telephone number of the person authorized to make or order repairs or services to the property, if the person is different from the owner or local manager.

(4) The square footage of living rooms, dining rooms, and bedrooms to determine occupancy load. (as added by Ord. #07-01, May 2007)

**13-503. Inspection required.** All residential rental units shall be inspected yearly by the city for compliance with this chapter and all other applicable laws. (as added by Ord. #07-01, May 2007)

**13-504. Property maintenance.** All residential rental units shall comply with the International Property Maintenance Code, adopted by the city. (as added by Ord. #07-01, May 2007)

**13-505. Frequency of inspections.** All residential rental units subject to this chapter shall be inspected yearly; but nothing shall preclude the inspection of the residential rental unit upon a complaint being made under the provisions of other city ordinances or state laws. (as added by Ord. #07-01, May 2007)

**13-506. Registration certificate required.** No person shall rent or allow for the occupancy of any residential rental unit that is subject to this ordinance without having a valid, current certificate of registration<sup>1</sup> for that unit. The certificate shall be kept on the rental property at all times and shall state the maximum number of residents allowed to occupy the unit. The maximum occupancy number shall be established or confirmed by the city codes enforcement officer using standards contained within the property maintenance code. (as added by Ord. #07-01, May 2007)

**13-507. Certificate registration date.** The certificate of registration issued pursuant to this chapter shall expire three (3) years from the date of issuance. The expiration date shall be prominently displayed on its face. (as added by Ord. #07-01, May 2007)

**13-508. Certificate transferability.** A certificate of registration issued shall not be transferred to succeeding owners. Upon a transfer of ownership of the property, a new certificate of registration shall be required. (as added by Ord. #07-01, May 2007)

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<sup>1</sup>The rental property registrations certificate for the City of Greenbrier appears at the end of this chapter as Exhibit B.

**13-509. Requests for additional inspections.** The owner or designated property manager of any residential rental unit that is subject to this chapter may request additional inspections of the rental unit at any time. (as added by Ord. #07-01, May 2007)

**13-510. Exemptions.** This chapter shall not apply to the following:

- (1) Residential rental units owned and operated by any governmental agency;
- (2) Residential rental units licensed and inspected by the state;
- (3) Hotels that do not rent to permanent residents, and nursing homes or assisted living or retirement facilities; and
- (4) Apartment complexes that already keep the required registration information on file and accessible, have more than four (4) units and have on-site property managers. (as added by Ord. #07-01, May 2007)

**13-511. Records.** All records, files, and documents pertaining to the rental registration and rental unit inspection program shall be maintained by the City of Greenbrier and made available to the public as allowed or required by state law or city ordinance. (as added by Ord. #07-01, May 2007)

**13-512. Other actions, prosecutions, court cases.** Nothing in this chapter shall prevent the city from taking action under any of its fire codes, building codes, technical codes, zoning ordinances, or other safety and health codes, ordinances or laws for violations thereof to seek injunctive relief or criminal prosecution of such violation in accordance with the terms and conditions or particular code, ordinance or law under which the city would proceed against the property owner, designated property manager, or occupant of any residential unit covered by this registration and inspection ordinance. (as added by Ord. #07-01, May 2007)

**13-513. Nuisances, injunction.** Any violation of this chapter is hereby declared a nuisance. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction. (as added by Ord. #07-01, May 2007)

**13-514. Enforcement.** Pursuant to Tennessee Code Annotated, § 7-63-101, the building and code inspector and/or the property standards officer are authorized to issue ordinance summons for violations of this chapter on private property. The building and codes inspection and/or the property standards officer shall upon the complaint of any citizen, or acting on their own initiative, investigate complaints of property maintenance codes on private property. If, after such investigation, the building and codes inspector and/or the

property standards officer find a violation, they shall issue an ordinance summons. The chapter summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer charges against him or them. If the offender refused to sign the agreement to appear, the building and codes inspector and/or the property standards officer may:

- (1) Request a city judge to issue a summons; or
- (2) Request a police officer to witness the violation.

The police officer who witnesses the violation may issue the offender a citation, as authorized by Tennessee Code Annotated, § 7-63-101 *et. seq.* In addition to other penalties, the building and codes inspector and/or the property standards officer may order the discontinuance of utility service to any building in violation of this chapter. This may only be done when the owner of the property has been given at least ten (10) days notice by certified mail or posting of the violation at the premises and the owner has failed to make substantial progress toward correcting the violations. (as added by Ord. #07-01, May 2007)

**13-515. Penalty for violation.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues, it shall constitute a separate violation. (as added by Ord. #07-01, May 2007)

**13-516. Saving clause.** Nothing in this chapter shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this chapter, nor shall any just and legal right or remedy of any character be lost, impaired or affected by this chapter. (as added by Ord. #07-01, May 2007)

**13-517. Severability.** The various parts, sections, and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the chapter shall not be affected thereby. (as added by Ord. #07-01, May 2007)

Exhibit A

# CITY OF GREENBRIER

P.O. BOX 466 • 202 W. COLLEGE STREET  
GREENBRIER, TENNESSEE 37073  
PHONE (615) 643-4531 • FAX (615) 643-0357

Registration Number: \_\_\_\_\_

## RENTAL PROPERTY REGISTRATION APPLICATION

**Rental property address:** \_\_\_\_\_

**Property owner:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

**Person responsible for maintenance of property (if different from property owner):**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

**Square footage of:**

Bedroom 1 \_\_\_\_\_

Bedroom 2 \_\_\_\_\_

Bedroom 3 \_\_\_\_\_

Bedroom 4 \_\_\_\_\_

Living Room \_\_\_\_\_

Dining Room \_\_\_\_\_

\_\_\_\_\_  
Owner's Signature

(as added by Ord. #07-01, May 2007)

\_\_\_\_\_  
Date

Exhibit B

**CITY OF GREENBRIER, TENNESSEE**  
**RENTAL PROPERTY REGISTRATION CERTIFICATE**

Rental Property Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Unit Number \_\_\_\_\_

Owner's Name \_\_\_\_\_

Registration Number \_\_\_\_\_

Date of Issuance \_\_\_\_\_

Maximum Occupancy \_\_\_\_\_

Date of Expiration \_\_\_\_\_

***This rental property registration certificate is good for a period of three (3) years and shall be kept on the property at all times. This certificate shall be presented to a City of Greenbrier code enforcement officer, upon request, at the time of property inspection. This certificate shall become invalid with a change of property ownership and must be surrendered to the City of Greenbrier.***

\_\_\_\_\_  
Codes official  
(as added by Ord. #07-01, May 2007)

\_\_\_\_\_  
Date

## CHAPTER 6

### SLUM CLEARANCE

#### SECTION

- 13-601. Findings of board.
- 13-602. Definitions.
- 13-603. "Public officer" designated; powers.
- 13-604. Initiation of proceedings; hearings.
- 13-605. Orders to owners of unfit structures.
- 13-606. When public officer may repair, etc.
- 13-607. When public officer may remove or demolish.
- 13-608. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-609. Basis for a finding of unfitness.
- 13-610. Service of complaints or orders.
- 13-611. Enjoining enforcement of orders.
- 13-612. Additional powers of public officer.
- 13-613. Powers conferred are supplemental.
- 13-614. Structures unfit for human habitation deemed unlawful.

**13-601. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city commission finds that there exists in the town structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (as added by Ord. #13-01, March 2013)

**13-602. Definitions.** (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

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

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

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

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

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

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

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #13-01, March 2013)

**13-603. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the building official of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building official. (as added by Ord. #13-01, March 2013)

**13-604. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #13-01, March 2013)

**13-605. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding

fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #13-01, March 2013)

**13-606. When public officer may repair, etc.** If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #13-01, March 2013)

**13-607. When public officer may remove or demolish.** If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #13-01, March 2013)

**13-608. Lien for expenses; sale of salvaged materials; other powers not limited.** The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Robertson County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure

is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Robertson County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the town of to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #13-01, March 2013)

**13-609. Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Greenbrier. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (as added by Ord. #13-01, March 2013)

**13-610. Service of complaints or orders.** Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Robertson County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #13-01, March 2013)

**13-611. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court. The remedy provided herein shall be the exclusive remedy and

no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #13-01, March 2013)

**13-612. Additional powers of public officer.** The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #13-01, March 2013)

**13-613. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #13-01, March 2013)

**13-614. Structures unfit for human habitation or use deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. Violations of this section shall subject the offender to a penalty of fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #13-01, March 2013)

## TITLE 14

### ZONING AND LAND USE CONTROL

#### CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. STORMWATER ORDINANCE.

#### CHAPTER 1

### MUNICIPAL PLANNING COMMISSION<sup>1</sup>

#### SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Compensation for members.

**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. All members of the planning commission shall serve as such without compensation. 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 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, who shall also have the authority to remove any appointive member at his will and pleasure.

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<sup>1</sup>Ordinance #98-08, April 1998 provides;

"Fees for the review of subdivision plats to be collected by the City of Greenbrier Building Inspector."

and

"The Greenbrier Building Inspector and/or the Greenbrier Municipal Planning Commission is hereby empowered and directed to charge and collect at the time a request is made for these particular services."

**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.

**14-103. Compensation for members.** The compensation for members of the planning commission and the board of zoning appeals shall be fifty dollars (\$50.00) per meeting, not to exceed \$50.00 per month. (Ord. #96-12, Sept. 1996)

CHAPTER 2

ZONING ORDINANCE<sup>1</sup>

SECTION

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

**14-201. Land use to be governed by zoning ordinance.** Land use within the Town of Greenbrier shall be governed by Ordinance #90-3, titled "Zoning Ordinance, Greenbrier, Tennessee," and any amendments thereto.<sup>2</sup>

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<sup>1</sup>Ordinance #90-3, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

<sup>2</sup>Ord. #09-14, which adopted the Design Review Manual, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 3

### STORMWATER ORDINANCE

#### SECTION

- 14-301. General purposes.
- 14-302. Definitions.
- 14-303. Land disturbance permits.
- 14-304. Stormwater system design and management standards.
- 14-305. Post construction.
- 14-306. Waivers.
- 14-307. Existing locations and developments.
- 14-308. Illicit discharges.
- 14-309. Enforcement.
- 14-310. Penalties.
- 14-311. Appeals.

**14-301. General purposes.** (1) It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of the City of Greenbrier and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(b) Enable the City of Greenbrier to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 C.F.R. § 122.26 for stormwater discharges.

(c) Allow the City of Greenbrier to exercise the powers granted in Tennessee Code Annotated, §68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The Greenbrier Building and Codes Official shall administer the provisions of this ordinance. (as added by Ord. #01-03, March 2001, and replaced by Ord. #05-04, March 2005, and Ord. #10-05, June 2010)

**14-302. Definitions.** For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "As-built plans" means drawings depicting conditions as they were actually constructed.

(2) "Best Management Practices (BMPs)" are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Greenbrier, and that have been incorporated by reference into this ordinance as if fully set out therein.

(3) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(4) "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Greenbrier.

(5) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(6) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(7) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(8) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(9) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

(10) "Erosion and sediment control plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(11) "Hot spot" ("priority area") means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(12) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(13) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-303(3).

(14) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(15) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(16) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(17) "Municipal Separate Storm Sewer System (MS4)" ("Municipal Separate Stormwater System") means the conveyances owned or operated by the

municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(18) "National Pollutant Discharge Elimination System permit (NPDES permit)" means a permit issued pursuant to 33 U.S.C. 1342.

(19) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(20) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(21) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(22) "Person" means 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.

(23) "Priority area" means "hot spot" as defined in § 14-302(11).

(24) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(25) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(26) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(27) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(28) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(29) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(30) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(31) "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(32) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques

intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(33) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(34) "Stormwater utility" means the stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.

(35) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

(36) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(37) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(38) "Watershed" means all the land area that contributes runoff to a particular point along a waterway. (as added by Ord. #01-03, March 2001, and replaced by Ord. #05-04, March 2005, and Ord. #10-05, June 2010)

**14-303. Land disturbance permits.** (1) When required. Every person will be required to obtain a land disturbance permit from the City of Greenbrier in the following cases:

(a) Land disturbing activity disturbs one-fourth (1/4) or more acres of land;

(b) Land disturbing activity of less than one-fourth (1/4) acre of land if such activity is part of a larger common plan of development that affects one-fourth (1/4) or more acre of land;

(c) Land disturbing activity of less than one-fourth (1/4) acre of land, if in the discretion of the City of Greenbrier such activity poses a unique threat to water, or public health or safety;

(d) The creation and use of borrow pits.

(2) Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.

(3) Exemptions. The following activities are exempt from the permit requirement:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the State of Tennessee.

(d) Additions or modifications to existing single-family structures.

(4) Application for a land disturbance permit. (a) Each application shall include the following:

- (i) Name of applicant;
- (ii) Business or residence address of applicant;
- (iii) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
- (iv) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
- (v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (vi) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity;
- (vii) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits;
- (viii) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of Greenbrier from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(b) Each applicant shall be accompanied by:

- (i) A sediment and erosion control plan as described in § 14-304(5).
- (ii) A stormwater management plan as described in § 14-304(4), providing for stormwater management during the land disturbing activity and after the activity has been completed.
- (iii) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by resolution or ordinance.

(5) Review and approval of application. (a) The building and codes official will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within seven (7) days after receiving an application, the building and codes official shall provide one (1) of the following responses in writing:

- (i) Approval of the permit application;
- (ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
- (iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the City of Greenbrier has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City of Greenbrier. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City of Greenbrier.

(c) No development plans will be released until the land disturbance permit has been approved.

(6) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(7) Notice of construction. The applicant must notify the building and codes official ten (10) working days in advance of the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the building and codes official. All inspections shall be documented and written reports prepared that contain the following information:

- (a) The date and location of the inspection;
- (b) Whether construction is in compliance with the approved stormwater management plan;
- (c) Variations from the approved construction specifications;
- (d) Any violations that exist.

(8) Performance bonds. (a) The City of Greenbrier may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City of Greenbrier.

Alternatively the City of Greenbrier shall have the right to calculate the cost of construction cost estimates.

(b) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The building and codes official will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the City of Greenbrier. (as added by Ord. #01-03, March 2001, and replaced by Ord. #05-04, March 2005, and Ord. #10-05, June 2010)

**14-304. Stormwater system design and management standards.**

(1) Stormwater design or BMP manual. (a) Adoption. The municipality adopts as its stormwater design and Best Management Practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

- (i) TDEC Sediment and Erosion Control Manual;
- (ii) TDEC Manual for Post Construction.

(b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the City of Greenbrier, based on improvements in engineering, science, monitory and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for stormwater management. Unless granted a waiver or judged by the City of Greenbrier to be exempt, the following post construction performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to preconstruction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(d) Stormwater discharges from "hot spots" may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Greenbrier to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the City of Greenbrier has granted the applicant a full or partial waiver for a particular BMP under § 14-306.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Greenbrier may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City of Greenbrier to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map: A one inch equals fifty feet (1"=50') topographic base map of the site which extends a minimum of twenty-five feet (25') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;

(v) Proposed structural BMPs;

(vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(b) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:

(i) A description of the design storm frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

(iv) Peak runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and

(ix) Documentation of sources for all computation methods and field test results.

(c) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(d) Maintenance and repair plan. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A

permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(e) Landscaping plan. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in Tennessee.

(f) Maintenance easements. The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(g) Maintenance agreement. (i) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the City of Greenbrier. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs

consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Greenbrier.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Greenbrier shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Greenbrier stormwater utility's cost of performing the maintenance shall be a lien against the property.

(iii) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(h) Sediment and erosion control plans. The applicant must prepare a sediment and erosion control plan for all construction activities that complies with § 14-304(5) below.

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be sealed by a registered professional engineer licensed in the State of Tennessee. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

(a) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.

(n) Specific remediation measures to prevent erosion and sedimentation runoff. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City of Greenbrier. Soil, sediment, and

debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the City of Greenbrier. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(p) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the groundwater system through infiltration. (as added by Ord. #01-03, March 2001, and replaced by Ord. #05-04, March 2005, and Ord. #10-05, June 2010)

**14-305. Post construction.** (1) As-built plans. All applicants are required to submit actual as-built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City of Greenbrier is required before any performance security or performance bond will be released. The City of Greenbrier shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City of Greenbrier.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City of Greenbrier. The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in § 14-304(4)(g)(ii)(B).

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least seven (7) years. These records shall be made available to the City of Greenbrier during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of Greenbrier, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Greenbrier shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to affect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Greenbrier may take necessary corrective action. The cost of any action by the City of Greenbrier under this section shall be charged to the responsible party. (as added by Ord. #01-03, March 2001, and replaced by Ord. #05-04, March 2005, and Ord. #10-05, June 2010)

**14-306. Waivers.** (1) General. Every applicant shall provide for post construction stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Greenbrier for approval.

(2) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one (1) of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Greenbrier.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City of Greenbrier that the waiver will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions or habitat;

(c) Accelerated stream bank or streambed erosion or siltation;

(d) Increased threat of flood damage to public health, life or property.

(4) Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan. (as added by Ord. #01-03, March 2001, and replaced by Ord. #05-04, March 2005, and Ord. #10-05, June 2010)

**14-307. Existing locations and developments.** (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Greenbrier.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

(i) Ponds.

(A) Detention pond;

(B) Extended detention pond;

- (C) Wet pond;
- (D) Alternative storage measures.
- (ii) Constructed wetlands.
- (iii) Infiltration systems.
  - (A) Infiltration/percolation trench;
  - (B) Infiltration basin;
  - (C) Drainage (recharge) well;
  - (D) Porous pavement.
- (iv) Filtering systems.
  - (A) Catch basin inserts/media filter;
  - (B) Sand filter;
  - (C) Filter/absorption bed;
  - (D) Filter and buffer strips.
- (v) Open channel. Swale.

(2) Requirements for existing problem locations. The City of Greenbrier shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of Greenbrier may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Correction of problems subject to appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under § 14-311 of this chapter. (as added by Ord. #05-04, March 2005, and replaced by Ord. #10-05, June 2010)

**14-308. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
  - (i) Water line flushing or other potable water sources;
  - (ii) Landscape irrigation or lawn watering with potable water;
  - (iii) Diverted stream flows;
  - (iv) Rising groundwater;
  - (v) Groundwater infiltration to storm drains;
  - (vi) Pumped groundwater;
  - (vii) Foundation or footing drains;
  - (viii) Crawl space pumps;
  - (ix) Air conditioning condensation;
  - (x) Springs;
  - (xi) Non-commercial washing of vehicles;
  - (xii) Natural riparian habitat or wet-land flows;
  - (xiii) Swimming pools (if dechlorinated--typically less than one (1) PPM chlorine);
  - (xiv) Fire fighting activities; and
  - (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the City of Greenbrier as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the City of Greenbrier has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for

emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify the City of Greenbrier in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City of Greenbrier within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least seven (7) years. (as added by Ord. #05-04, March 2005, and replaced by Ord. #10-05, June 2010)

**14-309. Enforcement.** (1) Enforcement authority. The Building and Codes Official of the City of Greenbrier shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the Building and Codes Official of the City of Greenbrier finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the director may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The building and codes official is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (d) and (e) below.

(c) Show cause hearing. The director may order any person who violates this ordinance or permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a

request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) **Compliance order.** When the director finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) **Cease and desist orders.** When the director finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(iii) **Conflicting standards.** Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail. (as added by Ord. #05-04, March 2005, and replaced by Ord. #10-05, June 2010)

**14-310. Penalties.** (1) **Violations.** Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Greenbrier, shall be guilty of a civil offense.

(2) **Penalties.** Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City of Greenbrier of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) **Measuring civil penalties.** In assessing a civil penalty, the City of Greenbrier may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the municipality;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover:

(a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.

(b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(5) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #05-04, March 2005, and replaced by Ord. #10-05, June 2010)

**14-311. Appeals.** Pursuant to Tennessee Code Annotated, § 68-221-11-06(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the municipality's governing body shall hold a public hearing within thirty (30) days. Ten (10) days' prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the municipality shall be final.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #10-05, June 2010)

## 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.

#### CHAPTER 1

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

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. [Deleted.]
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Hash marks.
- 15-108. Yellow lines.
- 15-109. Miscellaneous traffic-control signs, etc.
- 15-110. General requirements for traffic-control signs, etc.
- 15-111. Unauthorized traffic-control signs, etc.
- 15-112. Presumption with respect to traffic-control signs, etc.

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<sup>1</sup>Municipal code reference

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

<sup>2</sup>State law references

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

- 15-113. School safety patrols.
- 15-114. Driving through funerals or other processions.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. [Deleted.]
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Following too close.
- 15-124. Right of way at intersections.
- 15-125. Obstruction of operator's view or driving mechanism.
- 15-126. [Deleted.]
- 15-127. "Rules of the Road" adopted.
- 15-128. Compliance with financial responsibility law required.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1970 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. (1970 Code, § 9-106)

**15-103. [Deleted.]** (1970 Code, § 9-107, as deleted by Ord. #07-22, Dec. 2007)

**15-104. 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. (1970 Code, § 9-109)

**15-105. 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 municipality 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. (1970 Code, § 9-110)

**15-106. 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. (1970 Code, § 9-111)

**15-107. Hash marks.** It shall be unlawful for any person to drive any vehicle, of any type, on U. S. Highway 41, inside the town limits of the Town of Greenbrier, Tennessee, in certain areas on said highway designated by painted white lines, or referred to as "hash marks." Said painted lines or "hash marks" are located on the easterly and westerly sides of U. S. Highway 41 and are placed there for the safety of all citizens. (1970 Code, § 9-112)

**15-108. 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. (1970 Code, § 9-113)

**15-109. 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 municipality unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1970 Code, § 9-114)

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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.

**15-110. 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,<sup>1</sup> 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 municipality. This section shall not be construed as being mandatory but is merely directive. (1970 Code, § 9-115)

**15-111. 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. (1970 Code, § 9-116)

**15-112. 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 municipal authority. (1970 Code, § 9-117)

**15-113. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1970 Code, § 9-118)

**15-114. 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. (1970 Code, § 9-119)

**15-115. 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

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<sup>1</sup>This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

lawful duties nor to persons riding in the load-carrying space of trucks. (1970 Code, § 9-121)

**15-116. 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. (1970 Code, § 9-122)

**15-117. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1970 Code, § 9-123)

**15-118. 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, or using an exhaust cut-out, whistle, or similar device on any motor vehicle. (1970 Code, § 9-124)

**15-119. [Deleted.]** (1970 Code, § 9-125, as deleted by Ord. #07-22, Dec. 2007)

**15-120. Passing.** 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.

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. (1970 Code, § 9-126)

**15-121. Damaging pavements.** No person shall operate 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. (1970 Code, § 9-120)

**15-122. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor scooter shall be subject to the provisions of all traffic ordinances, rules, and regulations of the municipality 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 scooters.

No person operating or riding a bicycle, motorcycle, or motor scooter 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 scooter 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 scooter shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor scooter while any other person is a passenger upon said motor vehicle.

No person shall operate or ride upon any motorcycle, motorbike, or motor scooter unless such person is equipped with and wearing on the head a safety helmet with a secured chin strap and suspension lining, which said helmet shall conform to the type and design manufactured for the use of the operators and riders of such motor vehicles. (1970 Code, § 9-127)

**15-123. Following too close.** The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the streets. (1970 Code, § 9-128, as renumbered by Ord. #07-22, Dec. 2007)

**15-124. Right of way at intersections.** The operator of a vehicle approaching an intersection shall yield the right of way to any vehicle which has entered that intersection.

When two vehicles enter the intersection at approximately the same time, the operator of the vehicle on the left shall yield the right of way to the vehicle on the right. (1970 Code, § 9-129, as renumbered by Ord. #07-22, Dec. 2007)

**15-125. Obstruction of operator's view or driving mechanism.** No operator of any vehicle shall drive the same when such vehicle is so loaded with persons or materials as to obstruct the view of the operator or to interfere with the operator's control over the driving mechanism, or to endanger the lives or safety of passengers or others. (1970 Code, § 9-130, as renumbered by Ord. #07-22, Dec. 2007)

**15-126. [Deleted.]** (1970 Code, § 9-131, as renumbered and deleted by Ord. #07-22, Dec. 2007)

**15-127. "Rules of the Road" adopted.** By the authority granted under Tennessee Code Annotated, §55-10-307, the City of Greenbrier adopts by reference as it is fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, title 55, chapter 8. Additionally, the City of Greenbrier adopts Tennessee Code Annotated, § 55-8 in its entirety. (as added by Ord. #07-20, Dec. 2007, and replaced by Ord. #19-03, May 2019 *Ch7\_12-2-19*)

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

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

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

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

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

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

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

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

shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #07-21, Dec. 2007)

## 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. (1970 Code, § 9-102)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

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

(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 or blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of such 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. (1970 Code, § 9-103)

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**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 (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1970 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. (1970 Code, § 9-105)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones and near playgrounds.

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. (1970 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. (1970 Code, § 9-202)

**15-303. In school zones and near playgrounds.** 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 twenty (20) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. (1970 Code, § 9-203, modified)

**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. (1970 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. 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> (1970 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. (1970 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 roadways. (1970 Code, § 9-303)

**15-404. U-turns.** U-turns are prohibited. (1970 Code, § 9-304)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1970 Code, § 9-401)

**15-502. 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. (1970 Code, § 9-402)

**15-503. 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. (1970 Code, § 9-403)

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

**15-504. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet 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 (1500) feet 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. (1970 Code, § 9-404)

**15-505. 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. (1970 Code, § 9-405)

**15-506. 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. (1970 Code, § 9-406)

**15-507. At traffic-control signals generally.** Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

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

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

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

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

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal. (1970 Code, § 9-407)

**15-508. 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 by the municipality 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. (1970 Code, § 9-408)

**15-509. 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 municipality, 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. (1970 Code, § 9-409)

**15-510. 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. (1970 Code, § 9-410)

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<sup>1</sup>State law reference

## 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 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 (18) inches of the right edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley 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. (1970 Code, § 9-501)

**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 (24) feet. (1970 Code, § 9-502)

**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 such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1970 Code, § 9-503)

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(...continued)

Tennessee Code Annotated, § 55-8-143.

**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 (15) feet thereof.
  - (4) Within fifteen (15) feet of a fire hydrant.
  - (5) Within a pedestrian crosswalk.
  - (6) Within fifty (50) feet of a railroad crossing.
  - (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
  - (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.
- (1970 Code, § 9-504)

**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. (1970 Code, § 9-505)

**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. (1970 Code, § 9-506)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

15-701. Issuance of traffic citations.

15-702. Failure to obey citation.

15-703. Illegal parking.

15-704. Impoundment of vehicles.

15-705. Violation and penalty.

**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. (1970 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. (1970 Code, § 9-602)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1970 Code, § 9-603)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any vehicle which is illegally parked, abandoned, or otherwise

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<sup>1</sup>State law reference

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

parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be fifty dollars (\$50.00) and a storage cost of twenty dollars (\$20.00) per day shall also be charged. (1970 Code, § 9-604, as amended by Ord. #15-05, July 2015)

**15-705. Violation and penalty.** Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking violations. For other parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00).

## TITLE 16

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

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. SUBDIVISION REGULATIONS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Parades regulated.
- 16-110. Operation of trains at crossings regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Roadblocks restricted.

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1970 Code, § 11-201)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen (14) feet. (1970 Code, § 11-202)

**16-103. Trees, etc., obstructing view at intersections prohibited.** It shall be unlawful for any property owner or occupant to have or maintain on

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

his property any tree, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1970 Code, § 11-203)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1970 Code, § 11-204)

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the governing body. (1970 Code, § 11-205)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1970 Code, § 11-206)

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1970 Code, § 11-207)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1970 Code, § 11-208)

**16-109. Parades regulated.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1970 Code, § 11-209)

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

**16-110. Operation of trains at crossings regulated.** No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1970 Code, § 11-210, modified)

**16-111. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1970 Code, § 11-211)

**16-112. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1970 Code, § 11-212)

**16-113. Roadblocks restricted.** (1) Solicitation roadblocks are not allowed within the municipal limits of the Town of Greenbrier.

(2) The following terms shall apply in the interpretation and application of this ordinance:

(a) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right of way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(b) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any street, road, highway, or public place, the entire width of the public right of way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) Should the board of mayor and aldermen deem it is in the best interest of the Town of Greenbrier to allow solicitation roadblocks an ordinance shall be passed to establish rules and guidelines of said roadblocks. (as added by Ord. #14-03, April 2014)

## 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.** 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. (1970 Code, § 11-101)

**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,

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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).

Ordinance #00-10, Jan. 2001 establishes a fee for grading permits and is of record in the recorder's office.

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. (1970 Code, § 11-102)

**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 (25) feet in length; and twenty-five cents (\$.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. (1970 Code, § 11-103)

**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 recorder 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 municipality of relaying the surface of the ground or pavement, and of making the refill if this is done by the municipality 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 municipality if the applicant fails to make proper restoration. (1970 Code, § 11-104)

**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. (1970 Code, § 11-105)

**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 municipality shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the municipality, 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 municipality 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 municipality, 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. (1970 Code, § 11-106)

**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 \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1970 Code, § 11-107)

**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 municipality if the municipality 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. (1970 Code, § 11-108)

**16-209. Supervision.** The recorder, or anyone designated by him, 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 municipality 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. (1970 Code, § 11-109)

**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 (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1970 Code, § 11-110)

## CHAPTER 3

### SUBDIVISION REGULATIONS<sup>1</sup>

#### SECTION

16-301. Street widths.

16-302. Drainage system.

16-303. Development prerequisite to final approval-roadway surfacing.

16-304. Development prerequisite to final approval-minimum pavement widths.

16-305. Guarantees in lieu of completed improvements.

**16-301. Street widths.** The minimum widths of right of way, measured from lot line to lot line, shall be not less than fifty (50) feet. (Ord. #\_\_, Aug. 1966)

**16-302. Drainage system.** An adequate drainage system, including necessary open ditches, pipe, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow, and shall be of sufficient length to permit full width roadway and the required slopes. The size openings to be provided shall be determined by Talbot's formula, but in no case shall the pipe be less than 12 inches. Cross drains shall be built on straight line and grade, and shall be laid on a firm base but not on rock. Pipes shall be laid with the spigot end pointing in the direction of the flow and with the ends fitted and matched to provide tight joints and a smooth invert. They shall be placed at a sufficient depth below the road-bed to avoid dangerous pressure of impact, and in no case shall the top of the pipe be less than one foot below the road-bed. (Ord. #\_\_, Aug. 1966)

**16-303. Development prerequisite to final approval - roadway surfacing.** After preparation of the subgrade, the road-bed shall be surfaced with material required by local standards, but of no lower classification than crushed rock, stone or gravel. The size of the crushed rock or stone shall be that generally known as "crushed rock stone" from 2½ inches down including dust.

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<sup>1</sup>Ordinance #98-08, April 1998 provides:

"Fees for the review of subdivision plats to be collected by the City of Greenbrier Building Inspector."

and

"The Greenbrier Building Inspector and/or the Greenbrier Municipal Planning Commission is hereby empowered and directed to charge and collect at the time a request is made for these particular services."

Spreading of the stone shall be done uniformly over the area to be covered by means of appropriate spreading devices and shall not be dumped in piles. After spreading, the stone shall be rolled until thoroughly compacted. The compacted thickness of the stone roadway shall be no less than six (6) inches, there shall be a double surface treatments of asphalt applied. (Ord. #\_\_, Aug. 1966)

**16-304. Development prerequisite to final approval - minimum pavement widths.** Minimum pavement widths between curbs shall be twenty-four (24) feet. (Ord. #\_\_, Aug. 1966)

**16-305. Guarantees in lieu of completed improvements.** No final subdivision plat shall be approved by the mayor and board of aldermen of the town or accepted for record by the County Registrar of Deeds until the improvements listed shall be constructed in satisfactory manner and approved by the local approving agent, or in lieu of such prior construction, the mayor and board of aldermen may accept a security bond in an amount equal to the estimated cost of installation of the required improvement, whereby improvements may be made and utilities installed without cost to the town or county in the event of default of the subdivider. (Ord. #\_\_, Aug. 1966)

**TITLE 17****REFUSE AND TRASH DISPOSAL<sup>1</sup>****CHAPTER****1. REFUSE.****CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.

**17-101. Refuse defined.** Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1970 Code, § 8-101)

**17-102. Premises to be kept clean.** All persons within the municipality 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. (1970 Code, § 8-102)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within this municipality where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the municipality handles mechanically. Furthermore, except for containers which the municipality handles mechanically, the combined weight of any refuse

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

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. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1970 Code, § 8-103)

**17-104. Location of containers.** Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the municipality 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. (1970 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. (1970 Code, § 8-105)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the governing body shall designate. Collections shall be made regularly in accordance with an announced schedule. (1970 Code, § 8-106)

**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. (1970 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 governing body is expressly prohibited. (1970 Code, § 8-108)

## TITLE 18

### WATER AND SEWERS<sup>1</sup>

#### CHAPTER

1. GREENBRIER WATER AND SEWER DEPARTMENT.
2. WATER.
3. GENERAL WASTEWATER REGULATIONS.
4. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
5. [DELETED].
6. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
7. SEWER CONSTRUCTION ORDINANCE.

#### CHAPTER 1

### GREENBRIER WATER AND SEWER DEPARTMENT

#### SECTION

- 18-101. Consolidation of systems.  
 18-102. Collecting and accounting for revenues.  
 18-103. Allocation of operating expenses.  
 18-104. Disposition of revenue.

**18-101. Consolidation of systems.** Greenbrier water system and the Greenbrier sewer department are hereby consolidated into one department designated as the "Greenbrier Water and Sewer Department." (1970 Code, § 12-101)

**18-102. Collecting and accounting for revenues.** The revenue from water service and the revenue for sewer service shall be collected concurrently and combined in one statement to the beneficiary of such services and both charges shall be collected as a unit. The revenues from water services and the revenues from sewer services shall be kept segregated, deposited in separate accounts and separate books kept thereon. (1970 Code, § 12-102)

**18-103. Allocation of operating expenses.** All operating expenses of the Greenbrier Water and Sewer Department shall be equitably and accurately allocated between the two divisions of said department, the expenses thereof properly allocable to the water division being allocated to that division and the

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

expenses properly allocable to the sewer division being allocated to that division. (1970 Code, § 12-103)

**18-104. Disposition of revenue.** All revenues for water service shall be kept intact to the end that the same shall be punctually applied to the payment and retirement of water department bonds heretofore issued and for which said revenues have heretofore been pledged and in a like manner the revenues for sewer services shall be punctually applied to the payment and retirement of sewer department bonds heretofore issued and for which said revenues have heretofore been pledged by separate ordinances. (1970 Code, § 12-104)

## CHAPTER 2

### WATER

#### SECTION

- 18-201. Application and scope.
- 18-202. Definitions.
- 18-203. Obtaining service.
- 18-204. Application and contract for service.
- 18-205. Service charges for temporary service.
- 18-206. Connection charges.
- 18-207. Main extensions.
- 18-208. Variances from and effect of preceding rules as to extensions.
- 18-209. Meters.
- 18-210. Meter tests.
- 18-211. Multiple services through a single meter.
- 18-212. Billing.
- 18-213. Discontinuance or refusal of service.
- 18-214. Re-connection charge.
- 18-215. Termination of service by customer.
- 18-216. Access to customers' premises.
- 18-217. Inspections.
- 18-218. Customer's responsibility for system's property.
- 18-219. Customer's responsibility for violations.
- 18-220. Supply and resale of water.
- 18-221. Unauthorized use of or interference with water supply.
- 18-222. Damages to property due to water pressure.
- 18-223. Liability for cutoff failures.
- 18-224. Restricted use of water.
- 18-225. Interruption of service.
- 18-226. Schedule of rates.
- 18-227. Fluoridation of water supply.
- 18-228. Single-family dwelling connection fee.

**18-201. Application and scope.** These rules and regulations are a part of all contracts for receiving water service from the municipality and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1970 Code, § 12-201)

**18-202. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water service from the municipality under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

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

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1970 Code, § 12-202)

**18-203. Obtaining service.** A formal application for either original or additional service must be made and approved by the municipality before connection or meter installation orders will be issued and work performed. (1970 Code, § 12-203)

**18-204. Application and contract for service.** Each prospective customer desiring water service will be required to sign a standard form contract before service is supplied. If, for any reason, a customer, after signing a contract for water service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the municipality for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the municipality to render the service applied for. If the service applied for cannot be supplied in accordance with these rules, regulations, and general practice, the liability of the municipality to the applicant for such service shall be limited to the return of any deposit made by such applicant. (1970 Code, § 12-204)

**18-205. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1970 Code, § 12-205)

**18-206. Connection charges.** The following fees are established for water connections:

**WATER CONNECTION FEES**

|                            |             |
|----------------------------|-------------|
| Residential 3/4" tap ..... | \$ 1,000.00 |
| 2" Tap .....               | \$3,000.00  |

|                             |            |
|-----------------------------|------------|
| 4" Tap .....                | \$5,000.00 |
| 6" Tap .....                | \$7,500.00 |
| Outside the city            |            |
| Residential water tap ..... | \$1,700.00 |

**MULTI-UNIT FEE SCHEDULE**

|                      |                                       |
|----------------------|---------------------------------------|
| 1 to 5 units .....   | \$1,000.00 per unit                   |
| 6 to 10 units .....  | \$4,000.00 fee plus \$500.00 per unit |
| 11 to 20 units ..... | \$5,000.00 fee plus \$450.00 per unit |
| 21 to 30 units ..... | \$6,000.00 fee plus \$400.00 per unit |
| 31 to 39 units ..... | \$7,000.00 fee plus \$350.00 per unit |
| 40 to 49 units ..... | \$8,000.00 fee plus \$250.00 per unit |
| 50 units + .....     | \$9,000.00 fee plus \$250.00 per unit |

These fees will be effective July 1, 2001. (1970 Code, § 12-206, as replaced by Ord. # 01-02, Feb 2001, and amended by Ord. #05-01, March 2005, and Ord. #15-11, Jan. 2016)

**18-207. Main extensions.** Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

For installations under this section cement-lined cast iron pipe, class 150 American Water Works Association Standard, not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. All such lines shall be installed either by municipal forces or by other forces working directly under the supervision of the municipality.

Upon completion of such extensions and their approval by the municipality, such water mains shall become the property of the municipality. The persons paying the cost of constructing such mains shall execute any written instruments requested by the municipality to provide evidence of the municipality's title to such mains. In consideration of such mains being transferred to it, the municipality shall incorporate said mains as an integral part of the municipal water system and shall furnish water therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1970 Code, § 12-207)

**18-208. Variances from and effect of preceding rules as to extensions.** Whenever the governing body is of the opinion that it is to the best

interest of the water system to construct a water main extension without requiring strict compliance with § 18-207, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the governing body.

The authority to make water main extensions under § 18-207 is permissive only and nothing contained therein shall be construed as requiring the municipality to make water main extensions or to furnish service to any person or persons. (1970 Code, § 12-208)

**18-209. Meters.** All meters shall be installed, tested, repaired, and removed only by the municipality.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the municipality. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1970 Code, § 12-209)

**18-210. Meter tests.** The municipality will, at its own expense, make routine tests of meters when it considers such tests desirable.

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

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

The municipality will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

| <u>Meter Size</u> | <u>Test Charge</u> |
|-------------------|--------------------|
| 5/8", 3/4"        | \$50.00            |

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the municipality. (1970 Code, § 12-210, modified, as amended by Ord. #15-11, Jan. 2016)

**18-211. Multiple services through a single meter.** No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the municipality.

Where the municipality allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water charge for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the municipality's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1970 Code, § 12-212)

**18-212. Billing.** Bills for residential service will be rendered monthly.

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

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

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

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

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the municipality reserves the right to render an estimated bill based on the best information available. (1970 Code, § 12-213)

**18-213. Discontinuance or refusal of service.** The governing body shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

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

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

Discontinuance of service by the municipality for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1970 Code, § 12-214)

**18-214. Re-connection charge.** Whenever service has been discontinued as provided for above, a re-connection charge of twenty-five dollars (\$25.00) from 8:00 till 4:30 (regular office hours) and fifty dollars (\$50.00) after hours shall be collected by the municipality before service is restored. (1970 Code, § 12-215, modified, as amended by Ord. #15-11, Jan. 2016)

**18-215. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

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

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

(2) During the ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the municipality to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1970 Code, § 12-216)

**18-216. Access to customers' premises.** The municipality's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1970 Code, § 12-217)

**18-217. Inspections.** The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the municipality.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1970 Code, § 12-218)

**18-218. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the municipality shall be and remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of the municipality on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to care for it properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1970 Code, 12-219)

**18-219. Customer's responsibility for violations.** Where the municipality furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1970 Code, § 12-220)

**18-220. Supply and resale of water.** All water shall be supplied within the municipality exclusively by the municipality and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the municipality. (1970 Code, § 12-221)

**18-221. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the municipality's stop cocks, valves,

hydrants, spigots, or fire plugs without permission or authority from the municipality. (1970 Code, § 12-222)

**18-222. Damages to property due to water pressure.** The municipality shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the municipality's water mains. (1970 Code, § 12-223)

**18-223. Liability for cutoff failures.** The municipality's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the municipality has failed to cut off such service.

(2) The municipality has attempted to cut off a service but such service has not been completely cut off.

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

Except to the extent stated above, the municipality shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the municipality's cutoff. Also, the customer (and not the municipality) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1970 Code, § 12-224)

**18-224. Restricted use of water.** In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1970 Code, § 12-225)

**18-225. Interruption of service.** The municipality will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The municipality shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1970 Code, § 12-226)

**18-226. Schedule of rates.** For all water furnished by the municipality shall be measured or estimated in gallons to the nearest multiple of 1,000 and shall be furnished under such rate schedules as the municipality may from time to time adopt by ordinance or resolution.<sup>1</sup> (1970 Code, § 12-211)

**18-227. Fluoridation of water supply.** (1) The Water Department of the Town of Greenbrier, Tennessee, is hereby authorized and instructed to make plans for the fluoridation of the water supply of the Town of Greenbrier Tennessee: to submit such plans to the Department of 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.

(2) The cost of such fluoridation will be borne by the revenues of the Water Department of the Town of Greenbrier, Tennessee. (Ord. #\_\_, \_\_)

**18-228. Single-family dwelling connection fee.** (1) Each new equivalent single-family dwelling unit connection to the City of Greenbrier water system shall be charged a special water fee in the amount of four hundred dollars (\$400.00) plus a service charge of fifty dollars (\$50.00).

(2) An equivalent single-family dwelling unit connection is a unit of measurement equal to the amount of water that can be provided to a single-family dwelling unit connection through a three-fourths inch (3/4") water meter. The capacity fee charge per connection shall be determined by the water meter size and the number of equivalent single-family dwelling unit connections that can be provided through the meter. For the purpose of this section:

A 3/4-inch water meter provides one (1) equivalent single-family dwelling unit connection;

A 1-inch meter provides 1.67 equivalent single-family dwelling unit connections;

A 2-inch meter provides 5.33 equivalent single-family dwelling unit connections;

A 3-inch meter provides 10.67 equivalent single-family dwelling unit connections;

A 4-inch meter provides 16.67 equivalent single-family dwelling unit connections;

A 6-inch meter provides 33.33 equivalent single-family dwelling unit connection;

A 8-inch meter provides 53.33 equivalent single-family dwelling unit connections;

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

A 10-inch meter provides 76.67 equivalent single-family dwelling unit connections;

And a 12-inch meter provides 143.33 equivalent single-family dwelling unit connections.

(3) The special water fee charge and service charge shall be paid at the same time tap fees and other related charges for new water service connections are paid to the City of Greenbrier by its customers.

(4) The City of Greenbrier shall collect and forward to the City of Springfield the applicable special water fees.

(5) All ordinances, resolutions, and policies in conflict herewith shall be rescinded to the extent of the conflict only. (as added by Ord. #07-08, June 2007)

## CHAPTER 3

### GENERAL WASTEWATER REGULATIONS<sup>1</sup>

#### SECTION

- 18-301. Purpose and policy.
- 18-302. Administrative.
- 18-303. Definitions.
- 18-304. Proper waste disposal required.
- 18-305. Private domestic wastewater disposal.
- 18-306. Connection to public sewers.
- 18-307. Septic tank effluent pump or grinder pump wastewater systems.
- 18-308. Regulation of holding tank waste disposal or trucked in waste.
- 18-309. Discharge regulations.
- 18-310. Enforcement and abatement.
- 18-311. [Deleted.]
- 18-312. [Deleted.]
- 18-313. [Deleted.]

**18-301. Purpose and policy.** This chapter sets forth uniform requirements for users of the City of Greenbrier, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Greenbrier 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.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 4 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 4 details permitting requirements including 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. (1970 Code, § 12-301, as replaced by Ord. #05-03, May 2006, and Ord. #12-01, Feb. 2012)

**18-302. Administrative.** Except as otherwise provided herein, the city superintendent shall serve as the local administrative officer and shall administer, implement, and enforce the provisions of this chapter. The board of mayor and aldermen shall serve as the local hearing authority. (1970 Code, § 12-302, as replaced by Ord. #05-03, May 2006, and Ord. #12-01, Feb. 2012)

**18-303. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements.

(2) "Administrator." The administrator or the United States Environmental Protection Agency.

(3) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(4) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(5) "Authorized or duly authorized representative of industrial user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a)--(c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(6) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-309 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(7) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees centigrade (20°C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(8) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(9) "Categorical standards." The National Categorical Pretreatment Standards as found in 40 C.F.R. chapter I, subchapter N, parts 405--471.

(10) "City." The Board of Mayor and Aldermen, City of Greenbrier, Tennessee.

(11) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the

event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(12) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(13) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(14) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.

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

(16) "Customer." 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.

(17) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(18) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

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

(20) "Domestic wastewater." Wastewater that is generated by a single-family apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(21) "Environmental Protection Agency" or "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 the said agency.

(22) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(23) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling

procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(24) "Grease interceptor." An interceptor whose rated flow is fifty gallons per minute (50 gpm) or less and is generally located inside the building.

(25) "Grease trap." An interceptor whose rated flow is fifty gallons per minute (50 gpm) or more and is located outside the building.

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

(27) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(28) "Indirect discharge." The introduction of pollutants into the WWF from any nondomestic source.

(29) "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).

(30) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(31) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(32) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(33) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(34) "Local administrative officer." The chief administrative officer of the local hearing authority.

(35) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-405.

(36) "National categorical 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.

(37) "National Pollution Discharge Elimination System" or "NPDES." 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 Clean Water Act as amended.

(38) "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 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 engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (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.

(39) "North American Industrial Classification System" or "NAICS." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) System.

(40) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state 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.

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

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

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

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

(45) "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, biological processes, or process changes or other means, except through dilution as prohibited by 40 C.F.R. section 403.6(d).

(46) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

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

(48) "Pretreatment standards" or "standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(49) "Publicly Owned Treatment Works" or "POTW." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See "WWF, Wastewater Facility," found in definition number (64), below.

(50) "Shall" is mandatory; "may" is permissive.

(51) "Significant industrial user." The term significant industrial user means:

(a) 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

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream 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 WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

(52) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8. (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(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 multiplied by the applicable TRC (TRC= 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-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 § 18-405(1)(b)(i)(D), "Emergency order," 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 their 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 WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(53) "Slug." 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.

(54) "Standard Industrial Classification" or "SIC." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(55) "State." The State of Tennessee.

(56) "Storm sewer" or "storm drain." 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 approval of the superintendent.

(57) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(58) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(59) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(60) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(61) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(62) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability.<sup>1</sup>

(63) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(64) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(65) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof. (1970 Code, § 12-303, as replaced by Ord. #05-03, May 2006, and Ord. #12-01, Feb. 2012)

**18-304. Proper waste disposal required.** (1) 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, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 68-221-201

suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of subsection (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-305 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1970 Code, § 12-304, as replaced by Ord. #05-03, May 2006, and Ord. #12-01, Feb. 2012)

**18-305. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-304(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the

applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (1970 Code, § 12-305, as replaced by Ord. #05-03, May 2006, and Ord. #12-01, Feb. 2012)

**18-306. Connection to public sewers.<sup>1</sup> (1) Application for service.**

(a) There shall be two (2) classifications of service:

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or

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<sup>1</sup>Ordinance #19-13 (December 2, 2019) and any amendments thereto, sets sewer tap fees and may be found in the recorder's office.

character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of the ordinance comprising this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of the ordinance comprising this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of groundwater shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. 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 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, courtyard, 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. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the

superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system—four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers--one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2.0') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe Schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) 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 pump system according to § 18-307 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 by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) 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 superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow stormwater or groundwater to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the

expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewer Works, located at:

<http://www.state.tn.us/environment/wpc/publications/>.

Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (1970 Code, § 12-306, as replaced by Ord. #05-03, May 2006, and Ord. #12-01, Feb. 2012)

**18-307. Septic tank effluent pump or grinder pump wastewater systems.** When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the city.

(b) Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. Homeowners or developers shall provide the city with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the city to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains;

(ii) Disposal of toxic household substances;

(iii) Use of garbage grinders or disposers;

(iv) Discharge of pet hair, lint, or home vacuum water;

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) Additional charges. The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (as added by Ord. #01-15, Aug. 2001, and replaced by Ord. #05-03, May 2006, and Ord. #12-01, Feb. 2012)

**18-308. Regulation of holding tank waste disposal or trucked in waste.** (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant, shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-407. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his

discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Greenbrier.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (as added by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

**18-309. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass-through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions, the provisions of this section, or other pretreatment standards may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-310 or 18-405.

A user may not contribute the following substances to any WWF:

(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 WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Centigrade (60°C) using the test methods specified in 40 C.F.R. 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 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 WWF.

(c) 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 including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Centigrade (40°C) (one hundred four degrees (104°F)) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) 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, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, 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.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the WWF cause the WWF to be in noncompliance with sludge use or disposal criteria, 40 C.F.R. 503, guidelines, or regulations developed under section 405 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass-through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater 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 superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 4 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass-through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 4. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - Plant Protection Criteria

| Parameter                 | Maximum Concentration<br>(mg/l) |
|---------------------------|---------------------------------|
| Arsenic                   | 0.016454                        |
| Benzene                   | 0.01304                         |
| Cadmium                   | 0.0082859                       |
| Carbon Tetrachloride      | 1.50                            |
| Chloroform                | 0.15179                         |
| Chromium III              | 0.375                           |
| Chromium VI               | 0.06875                         |
| Copper                    | 0.265                           |
| Cyanide                   | 0.01368                         |
| Ethylbenzene              | 0.040                           |
| Lead                      | 0.03296                         |
| Mercury                   | 0.00021                         |
| Methylene Chloride        | 0.09615                         |
| Naphthalene               | 0.00714                         |
| Nickel                    | 0.16138                         |
| Total Phenol              | 0.14706                         |
| Silver                    | 0.01389                         |
| Tetrachloroethylene       | 0.13889                         |
| Toluene                   | 0.21429                         |
| Total Phthalate           | 0.14659                         |
| Trichlorethlene           | 0.10                            |
| 1,1,1-Trichloroethane     | 0.250                           |
| 1,2 Transdichloroethylene | 0.0075                          |
| Zinc                      | 0.290                           |

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single-family residences, but may be required on multiple-family residences. All interceptors shall be of a

type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-402 to regulate the discharge of fat, oil and grease. (as added by Ord. #05-03, May 2006, replaced by Ord. #12-01, Feb. 2012, and amended by Ord. #17-17, Sept. 2017 **Ch7\_12-2-19**)

**18-310. Enforcement and abatement.** Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction, face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 4. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (as added by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

**18-311. [Deleted.]** (as added by Ord. #05-03, May 2006, and deleted by Ord. #12-01, Feb. 2012)

**18-312. [Deleted.]** (as added by Ord. #05-03, May 2006, and deleted by Ord. #12-01, Feb. 2012)

**18-313. [Deleted.]** (as added by Ord. #05-03, May 2006, and deleted by Ord. #12-01, Feb. 2012)

## CHAPTER 4

### INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

#### SECTION

- 18-401. Industrial pretreatment.
- 18-402. Discharge permits.
- 18-403. Industrial user additional requirements.
- 18-404. Reporting requirements.
- 18-405. Enforcement response plan.
- 18-406. Enforcement response guide table.
- 18-407. Fees and billing.
- 18-408. Validity.

**18-401. Industrial pretreatment.** In order to comply with Federal Industrial Pretreatment Rules 40 C.F.R. 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-309.

(2) Users wishing to discharge pollutants at higher concentrations than Table A - Plant Protection Criteria of § 18-309, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-405.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits, Table B or other applicable state and federal pretreatment rules which may take effect after the passage of the ordinance comprising this chapter.

Table B - Local Limits

| Parameter                 | Monthly Average*<br>Maximum<br>Concentration (mg/l) | Daily Maximum<br>Concentration<br>(mg/l) |
|---------------------------|-----------------------------------------------------|------------------------------------------|
| Arsenic                   | 0.09485                                             | 0.1897                                   |
| Benzene                   | 0.07464                                             | 0.14927                                  |
| Cadmium                   | 0.04649                                             | 0.09299                                  |
| Carbon tetrachloride      | 8.87744                                             | 17.7549                                  |
| Chloroform                | 0.87356                                             | 1.74712                                  |
| Chromium III              | 2.1944                                              | 4.3888                                   |
| Chromium VI               | 0.36092                                             | 0.72184                                  |
| Copper                    | 1.46512                                             | 2.93024                                  |
| Cyanide                   | 0.03747                                             | 0.07493                                  |
| Ethylbenzene              | 0.23424                                             | 0.46848                                  |
| Lead                      | 0.19256                                             | 0.38513                                  |
| Mercury                   | 0.00123                                             | 0.00246                                  |
| Methylene chloride        | 0.55641                                             | 1.11282                                  |
| Naphthalene               | 0.02947                                             | 0.05894                                  |
| Nickel                    | 0.93909                                             | 1.87818                                  |
| Phenol                    | 0.51117                                             | 1.02234                                  |
| Silver                    | 0.07967                                             | 0.15934                                  |
| Tetrachloroethylene       | 0.81967                                             | 1.63934                                  |
| Toluene                   | 1.2558                                              | 2.51159                                  |
| Total Phthalate           | 0.2593                                              | 0.5186                                   |
| Trichlorethylene          | 0.58944                                             | 1.17888                                  |
| 1,1,1-Trichloroethane     | 1.47744                                             | 2.95488                                  |
| 1,2 Transdichloroethylene | 0.04184                                             | 0.08368                                  |
| Zinc                      | 1.39424                                             | 2.78848                                  |

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

Table C - Surcharge and Maximum Limits, mg/l

| Parameter        | Surcharge Limit | Maximum Concentration |
|------------------|-----------------|-----------------------|
| Ammonia nitrogen | 40              | 50                    |
| Oil and grease   | 100             | 150                   |
| BOD              | 300             | 450                   |
| Suspended solids | 300             | 300                   |

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass-through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator 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 local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF 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 WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF 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 Environment and Conservation and/or the United States Environmental Protection Agency. (1970 Code, § 18-401, as deleted by Ord. #05-03, May 2006, replaced by Ord. #12-01, Feb. 2012, and amended by Ord. #17-17, Sept. 2017 *Ch7\_12-2-19*)

**18-402. Discharge permits.** (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate

commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-306 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter 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.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of the ordinance comprising this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in § 18-309 and § 18-401 discharge variations--daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment

and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. 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 the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance 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 for the applicable pretreatment standard. For the purpose of this subsection, "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(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 chapter 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 pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator 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 period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws;

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the user's processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator 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 sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. 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 renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter 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 terms 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:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(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, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator 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 chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (1970 Code, § 18-402, as deleted by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

**18-403. Industrial user additional requirements.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed 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 pretreatment coordinator, 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 pretreatment coordinator 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 expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 C.F.R. 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 phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its 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. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. 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 responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter 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. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, 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 and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any

finances, civil penalties, or other liability which may be imposed by this chapter 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. (1970 Code, § 18-403, as deleted by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

**18-404. Reporting requirements.** Users whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-405.

(1) **Baseline monitoring report.** (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in subsection (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 C.F.R. 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this section.

(F) 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 waste stream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 C.F.R. 136 or other approved methods.

(H) The superintendent 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.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-404(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-404(14) of this chapter and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-404(1)(d) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule;

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any

user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-404(1)(b)(vi) and (v) of this chapter. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-402 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-402 of this chapter or modify an existing wastewater discharge permit under § 18-402 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at their facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent 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 superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-404(5) of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-404(1), 18-404(3), and 18-404(4) of this chapter.

(b) Dischargers are exempt from the requirements of subsection (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(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 user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. 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 organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of 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

superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-404. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements; signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

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.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (1970 Code, § 18-404, as deleted by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

**18-405. Enforcement response plan.** Under the authority of Tennessee Code Annotated, § 69-3-123, et seq.

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Greenbrier Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-405(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the

following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry

out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer. (A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (a)(vi). The recorder transcript shall be made available to the petitioner or any party to a hearing upon payment of a

charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Robertson County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b);

(viii) Any person to whom an emergency order is directed under § 18-405(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be

taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125:

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative

officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-402(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations or a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-309.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of noncompliance. (a) Insignificant noncompliance. For the purpose of this guide, insignificant noncompliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 1200-4-14-.08(6)(b)(8).

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) 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 multiplied by the applicable TRC (TRC=1.4 BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-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 POTW personnel or the general public).

(iv) 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 § 18-405(1)(b)(i)(D), Emergency order, to halt or prevent such a discharge.

(v) 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.

(vi) Failure to provide, within forty-five (45) days after their 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.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant noncompliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).<sup>1</sup>

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (c), (d) or (h) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month

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<sup>1</sup>The Enforcement Response Plan Guide Table (Appendix A) is of record in the office of the city recorder.

period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-407 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent 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 the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance; or

(g) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (1970 Code, § 8-405, as deleted by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

**18-406. Enforcement response guide table.** (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A<sup>1</sup> to impose sanctions or penalties for the violation of this chapter. (1970 Code, § 8-406, as deleted by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

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<sup>1</sup>Appendix A, also known as the Enforcement Response Guide Table, is of record in the office of the city recorder.

**18-407. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from 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 as established in the city's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees (see Table C);
- (e) Waste hauler permit;
- (f) Industrial wastewater discharge permit fees;
- (g) Fees for industrial discharge monitoring; and
- (h) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-402 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.

(5) Sewer user charges.<sup>1</sup> The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-407 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A).<sup>2</sup> The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

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<sup>1</sup>Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

<sup>2</sup>The Enforcement Response Guide Table (Appendix A) is of record in the office of the city recorder.

|            |                         |
|------------|-------------------------|
| Category 1 | No penalty              |
| Category 2 | \$50.00--\$500.00       |
| Category 3 | \$500.00--\$1,000.00    |
| Category 4 | \$1,000.00--\$5,000.00  |
| Category 5 | \$5,000.00--\$10,000.00 |

(1970 Code, § 8-407, as deleted by Ord. #05-03, May 2006, and replaced by Ord. #12-01, Feb. 2012)

**18-408. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (as added by Ord. #12-01, Feb. 2012)

**CHAPTER 5**

**[DELETED]**

(as deleted by Ord. #05-03, May 2006)

## CHAPTER 6

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-601. Generally.
- 18-602. Objectives.
- 18-603. Definitions.
- 18-604. Compliance with state law.
- 18-605. Regulated.
- 18-606. Permit required.
- 18-607. Inspections.
- 18-608. Correction of violations.
- 18-609. Required devices.
- 18-610. Non-potable supplies.
- 18-611. Statement required.
- 18-612. Penalty; discontinuance of water supply.
- 18-613. Provision applicable.

**18-601. Generally.** (1) Background and purpose. In order for the City of Greenbrier to serve the public and to comply with the regulations of the Environmental Protection Agency and the Tennessee Department of Environment and Conservation and other state and federal regulations, the City of Greenbrier must establish a cross connection ordinance and program to protect the public's water supply.

The City of Greenbrier is run for the benefit of all present and future customers, and while no customer shall intentionally be treated unfairly, no customer shall be treated in a way that compromises the interests of other current and future customers.

(2) Limitations. The City of Greenbrier is subject to various city, county, state, federal or other governmental agency requirements and has no discretion to provide service in a manner which would violate such regulations or requirements.

(3) Record keeping duration. All records regarding cross connections shall be kept indefinitely.

(4) Omissions. In the absence of specific rules or policies, the governing board in accordance with its usual and customary practices shall make the disposition of situations involving service.

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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.

This chapter sets forth uniform requirements for the protection of the public water system for the City of Greenbrier from possible contamination, and enable the City of Greenbrier to comply with all applicable local, State and Federal laws, regulations, standards or requirements, including the Safe Drinking Water Act of 1996, Tennessee Code Annotated, § 68-221-701 to 68-221720 and the Rules and Regulations for Public Water Systems and Drinking Water Quality issued by the Tennessee Department of Environment and Conservation, Division of Water Supply. (1970 Code, § 8-301, as replaced by Ord. #07-13, Sept. 2007)

**18-602. Objectives.** The objectives of this chapter are to:

- (1) Protect the public potable water system of City of Greenbrier from the possibility of contamination or pollution by isolating within the customer's internal distribution system, such contaminants or pollutants that could backflow or backsiphon into the public water system;
- (2) Promote the elimination or control of existing cross connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems;
- (3) Provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (1970 Code, § 8-302, as replaced by Ord. #07-13, Sept. 2007)

**18-603. Definitions.** The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this chapter:

- (1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two inches (2"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two inches (2 ").
- (2) "Atmospheric vacuum breaker" shall mean a device, which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.
- (3) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.
- (4) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross connection.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross connections.

(9) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with AWWA Manual M14 - Second Edition 1990. The six (6) classes are as follows:

Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

Class 3 shall be those with direct connection from public water supply mains, plus one or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are

filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements 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 system.

(13) "Person" shall mean 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.

(14) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(15) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(16) "Public water supply" shall mean the City of Greenbrier water system, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(17) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(18) "Manager" shall mean the Manager of the City of Greenbrier or his duly authorized deputy, agent or representative.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e. the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (1970 Code, § 8-303, as replaced by Ord. #07-13, Sept. 2007)

**18-604. Compliance with state law.** The City of Greenbrier shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The City of Greenbrier shall comply with Tennessee Code Annotated, § 68-221-711, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (1970 Code, § 8-304, as replaced by Ord. #07-13, Sept. 2007)

**18-605. Regulated.** (1) No water service connection to any premises shall be installed or maintained by the City of Greenbrier unless the water supply system is protected as required by state laws and this chapter. Service of water to any premises shall be discontinued by the City of Greenbrier if a backflow prevention device required by this chapter is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) It shall be unlawful for any person to cause a cross connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross connection is at all times under the direction of the manager of the City of Greenbrier.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the City of Greenbrier shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter. (as added by Ord. #07-13, Sept. 2007)

**18-606. Permit required.** (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the City of Greenbrier for approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the City of Greenbrier. (as added by Ord. #07-13, Sept. 2007)

**18-607. Inspections.** (1) The manager or his designated agent shall inspect all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and re-inspection shall be based on potential health hazards involved, and shall be established by the City of Greenbrier in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation.

(2) Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the City of Greenbrier public water system for the purpose of inspecting the piping system therein for cross connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections, and shall be grounds for disconnection of water service. (as added by Ord. #07-13, Sept. 2007)

**18-608. Correction of violations.** (1) Any person found to have 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 the existing conditions and an appraisal of the time required to complete the work, the manager or his representative shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the City of Greenbrier shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately connected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (as added by Ord. #07-13, Sept. 2007)

**18-609. Required devices.** (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

- (a) Impractical to provide an effective air-gap separation;
- (b) The owner/occupant of the premises cannot or is not willing to demonstrate to the City of Greenbrier that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;
- (c) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;

(d) There is likelihood that protective measures may be subverted, altered or disconnected;

(e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required

(f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems) approved by the Tennessee Department of Environment and Conservation and the City of Greenbrier, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the City of Greenbrier prior to installation and shall comply with the criteria set forth in this chapter. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by City of Greenbrier as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except:

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(4) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(5) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this chapter, by a person approved by the City of Greenbrier who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device. All fittings shall be of brass construction unless otherwise approved by the City of Greenbrier, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either:

(i) The floor;

(ii) The top of opening(s) in the enclosure; or

(iii) Maximum flood level, whichever is higher. Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/backsiphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by the City of Greenbrier. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices two and one-half inches (2 1/2") and larger shall be provided through a minimum of two access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of forty degrees Fahrenheit (+40°F) with an outside temperature of negative thirty degrees Fahrenheit (-30°F) and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one device has been installed and the continuance of service is critical, the City of Greenbrier shall notify, in writing, the occupant of the premises of plans to interrupt water services

and arrange for a mutually acceptable time to test the device. In such cases, the City of Greenbrier may require the installation of a duplicate device.

(p) The City of Greenbrier shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the City of Greenbrier. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this chapter and shall be grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the City of Greenbrier.

(6) Testing of devices. Devices shall be tested at least annually by the City of Greenbrier by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test will be on file with the City of Greenbrier and a copy of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises.

There will be no charge for annual testing. (as added by Ord. #07-13, Sept. 2007)

**18-610. Non-potable supplies.** The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this chapter. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

#### WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with Occupational Safety and Health Act (OSHA) guidelines, shall be required in locations where in the judgment of the City of Greenbrier, such coding is necessary to identify and protect the potable water supply. (as added by Ord. #07-13, Sept. 2007)

**18-611. Statement required.** Any person whose premises are supplied with water from the public water system, and who also has on the same

premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the City of Greenbrier a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (as added by Ord. #07-13, Sept. 2007)

**18-612. Penalty; discontinuance of water supply.** (1) Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross connection, auxiliary intake, bypass or interconnection has been eliminated. (as added by Ord. #07-13, Sept. 2007)

**18-613. Provision applicable.** The requirements contained in this chapter shall apply to all premises served by the City of Greenbrier and are hereby made part of the conditions required to be met for the City of Greenbrier to provide water services to any premises. The provisions of this chapter shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the chapter is entitled to a due process hearing upon timely request. (as added by Ord. #07-13, Sept. 2007)

## CHAPTER 7

### SEWER CONSTRUCTION ORDINANCE

#### SECTION

18-701. Purpose - sewer construction credit ordinance.

18-702. General standards.

18-703. Miscellaneous.

**18-701. Purpose - sewer construction credit ordinance.** (1) The purpose of this ordinance is to provide the basis for achieving the adopted town goals and objectives defined below:

To improve and increase the benefit of city-supplied sewer service to the citizens of Greenbrier;

To foster the development of the best possible land uses within the boundaries of the Town of Greenbrier;

To minimize future operational and maintenance costs to the people of the Town of Greenbrier;

To help preserve the environmental quality, social well-being, and economic stability of the Town of Greenbrier.

To provide corrective works which are consistent with the overall goals, policies, standards, and criteria of the Town of Greenbrier.

(2) The provisions of this ordinance further regulate, guide, and control:

(a) The providing of tap fee credits in response to privately funded public sewer extensions benefitting the people of the Town of Greenbrier. (as added by Ord. #01-16, Aug. 2001)

**18-702. General standards.** (1) Applicability and exceptions. This ordinance shall be applicable within the Town of Greenbrier's jurisdictional area and shall apply to sewer extensions which, in the determination of the Greenbrier Director of Public Works, benefit the public-at-large of the Town of Greenbrier. In order to apply for such determination, said sewer extension must provide service to more than one customer and must provide new customers to the system outside of the development being constructed which would require the payment of tap fees.

For clarity, in order to be eligible for tap fee credits, a sewerline extension must be required which passes land presently not served by city sewer prior to

crossing in front of or into the subdivision being developed. The land in front of which the extension passes may not be under the same ownership either directly or indirectly as the land being developed.

(2) Determination of extensions eligible for credits. In order to be eligible for tap fee credits, the following criteria must be met by sewer line extension:

(a) It must be a public extension and, as such, must meet all of the construction standards of the Town of Greenbrier and must be accepted as such by the director of public works;

(b) It must be a gravity sanitary sewer line with sufficient capacity to serve more lots than are proposed within the specific development being served at the time of installation (force mains or pressurized lines do not qualify for a credit);

(c) It must serve more than one property;

(d) It must create customers for the system which would be required to pay tap fees and who are not homeowners within the subdivision being developed;

(e) It must be dedicated to the town;

(f) It must be located on a permanent public right-of-way or easement.

(3) Determination of credits. The determination of tap fee credits for a development of subdivision shall be the responsibility of the Greenbrier Planning Commission. In order to qualify for credits, the following information must be submitted to the planning commission:

(a) A scale drawing showing the sewer line extension and showing the appropriate property lines along the run. This drawing must be a plan/profile which not only clearly shows the length and alignment but also clearly demonstrates that the sewer will flow by gravity;

(b) Calculations showing the capacity of the proposed gravity sewer;

(c) If the proposed gravity sewer drains to an existing or proposed lift station, then a letter from the department of public works stating that they are in agreement to that installation and calculations showing that the existing lift station, improved lift station, or proposed lift station has a capacity or excess capacity equal to or exceeding the capacity of the proposed gravity sewer line;

(d) A master plan or preliminary plat showing the entire development with a lot layout meeting all requirements of the subdivision regulations and zoning ordinance which shows a maximum number of lots proposed for the development (this will be the maximum number of tap fee credits which can be claimed in the life of the project. Lots of properties not shown on the master plan or preliminary plat will not be eligible for tap fee credits);

(e) Proof of control, either through ownership or option of all properties shown in the master plan or preliminary plat (Lots on properties for which proof of control is not provided will not be eligible for tap fee credits).

(4) Calculation of tap fee credits. Based upon the information provided above, the planning commission shall determine a length of sewer line extension that is eligible for credits based upon the rules set forth herein and shall determine a maximum number of lots within a development for which these credits may be applied. Given this information, a percentage reduction of the tap fee will be applied to all lots within the development up to the maximum number of lots determined by the planning commission according to the following table:

| Linear Feet of Sewer Line Extension Eligible to be Applied to Tap Fee Credits | Percentage Reduction of Sewer Tap Fees for All Lots in Development Up to the Maximum Number Determined by the Planning Commission |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| 0-100                                                                         | 0                                                                                                                                 |
| 100.1-200                                                                     | 10                                                                                                                                |
| 200.1-300                                                                     | 20                                                                                                                                |
| 300.1-400                                                                     | 30                                                                                                                                |
| 400.1-500                                                                     | 40                                                                                                                                |
| 500.1-600                                                                     | 50                                                                                                                                |
| 600.1-700                                                                     | 60                                                                                                                                |
| 700.1-800                                                                     | 70                                                                                                                                |
| 800.1-900                                                                     | 80                                                                                                                                |
| 900.1-1000                                                                    | 90                                                                                                                                |
| 1000.1 +                                                                      | 100                                                                                                                               |

(5) Limitation of tap fee credits. Tap fee credits will be available to the developer under the following terms and conditions:

(a) This credit is a credit against tap fees only. At no point will the Town of Greenbrier ever be responsible for payment of any kind in cash under the provisions of this ordinance;

(b) The credits will be determined based upon a specific subdivision or development as shown on the master plan or preliminary plat described in (3) and will be made available for that development only. Developers or land owners may not apply tap fee credits from one development onto another development;

(c) In the event that the number of lots developed is less than the number of tap fee credits approved, no additional credits or monies will be available to that developer;

(d) Tap fee credits under this ordinance may only be applied to tap fees and may not be applied to any other fees or payments associated with the development. (as added by Ord. #01-16, Aug. 2001)

**18-703. Miscellaneous.** (1) Validity. If any term or provision of this ordinance shall be held to be unconstitutional or otherwise unenforceable, the remainder thereof shall not be affected thereby and shall remain in full force and effect.

(2) Conflict. All ordinances heretofore adopted on the subject of this ordinance which are in conflict herewith are hereby repealed and the applicable provisions of the ordinance are substituted in their place.

(3) Variances. The mayor and board of aldermen shall have the power through a two-thirds majority vote to authorize variances from the provisions or requirements of this ordinance as will not be contrary to the public interest. No variance from the strict application of any provision shall be granted unless it is found that:

(a) Literal interpretation of this ordinance would in any way pose a threat to public health or safety.

(b) Granting of the variance will be in the overall best interest of the citizens of the Town of Greenbrier and will not be injurious to the immediate neighborhood or otherwise detrimental to the public welfare. (as added by Ord. #01-16, Aug. 2001)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

**1. GAS.**

**CHAPTER 1**

**GAS**

**SECTION**

19-101. To be furnished under franchise.

**19-101. To be furnished under franchise.** Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.<sup>1</sup> (1970 Code, § 12-401)

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<sup>1</sup>The agreements are of record in the office of the city recorder.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

**1. TELEPHONE SERVICE.**

**CHAPTER 1**

**TELEPHONE SERVICE**

**SECTION**

20-101. To be furnished under franchise.

**20-101. To be furnished under franchise.** Telephone service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.<sup>1</sup> The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

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<sup>1</sup>The agreements are of record in the office of the recorder.

ORDINANCE NO. 97-10**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF GREENBRIER TENNESSEE.**

WHEREAS some of the ordinances of the Town of Greenbrier are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Greenbrier, 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 "Greenbrier Municipal Code," now, therefore:

BE IT ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF GREENBRIER, TENNESSEE, THAT:

**Section 1. Ordinances codified.** The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Greenbrier Municipal Code," hereinafter referred to as the "municipal code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the

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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.

workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense. (As amended by Ord. #94-01, April 1994)

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

**Section 7. Reproduction and amendment of code.** The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

**Section 10. Date of effect.** This ordinance shall take effect from and after its passage, the welfare of the town requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, August 4, 1997.

Passed 2nd reading, September 8, 1997.

Public Hearing September 8, 1997

*[Signature]*  
Mayor

*[Signature]*  
Recorder